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The American
Political Science Review

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JUDICIAL CONTROL OF OFFICIAL DISCRETION

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When men reflect about government, whether practically or academically, they always turn up, if they think deeply enough, two central problems: first, how to ensure that government shall do what it is supposed to do, and secondly, how to ensure that it shall not do other things. One is the problem of efficiency, the other the problem of control; and around the two is built most, perhaps all, of the so-called science of politics. At some periods the need for control seems the more vital and pressing. It seemed so to Englishmen, for example, during the two centuries following the accession of the Stuarts. At other times and places the pendulum has swung in the opposite direction,[1] and in fifteenth century Europe, as in contemporary Italy, the dominant desire was for government strong enough and untrammelled enough to stem successfully a rising tide of disorder. Each age strikes its own balance in favor of one principle or the other, and thereby touches the opposite principle into action to redress the balance at some new point of readjustment.

I

The competing claims of efficiency and control have often expressed themselves in the form of controversy concerning the comparative merits of government by discretion and government by law—or, in Harrington's phrase, a government of laws

[1] Cf. W. B. Munro, "The Pendulum of Politics," *Harper's Magazine*, May, 1927, and *The Invisible Government* (New York, 1928), pp. 58 ff.

and a government of men. In this form the conflict has left its mark everywhere on political thought since Aristotle. Discretion means freedom for government to choose among possible alternatives of action. As one judge has said, "In honest plain language it means 'Do as you like.'"[2] It is thus a condition of efficiency, but it is very apt to exact the price of arbitrariness. Law, on the other hand, requires that government shall act by set rule, shall limit itself to a particular way of acting in each particular situation. It seeks to eliminate choice in favor of certainty; it narrows the possible range of governmental action in order that such action may be predicted and controlled in advance.

Aristotle saw more clearly than many of his successors the inherent limitations upon law as a means of controlling government. It is impossible to eliminate from government what Mr. Justice Holmes has called "the sovereign prerogative of choice,"[3] because it is impossible to lay down a rule for everything that it has to do. We may prescribe in advance that government shall compel public utilities to charge reasonable rates for their services, but we cannot prescribe once for all what a reasonable rate is: we must leave it to choice operating upon circumstances. In the language of Aristotle, "law is universal, but it is not always possible to lay down a general rule which shall apply to all cases correctly. . . . . This is the reason why not all things can be according to law, because on some subjects it is impossible to make a law, and there must be a special determination from case to case."[4] "As to cases which the law seems unable to determine . . . . the law appoints officials and leaves such matters to them to determine to the best of their judgment."[5]

In short, even under a government of laws, room must be

[2] Vice-Chancellor Bacon in *In re* Norrington, 13 Ch. Div. 659. "The term discretion implies the absence of a hard and fast rule. The establishment of a clearly defined rule would be the end of discretion," Norris v. Clinkscales, 47 So. Car. 488.

[3] *Collected Legal Papers* (New York, 1920), p. 239.

[4] *Nicomachean Ethics*, v. 10, 4, 6 (1137b).

[5] *Politics*, III, 16, 4, 5 (1287a).

left for the play of governmental discretion; and for the control of this discretion, if it is to be controlled, some agency other than law must be found. It has been found in the last two centuries in political responsibility of government to the governed. Governmental discretion has been robbed of many of its terrors by being subjected at the ballot box to the pressure of those against whom it is exercised. The nature of the governmental impact has been radically altered in direction; from being the impact of the few upon the many, it has largely become the impact of the many upon the few. This alteration has, however, brought perils of its own. The many may arbitrarily impose their will upon the few; and here the usefulness of control by law, so far as law can be made effective, still remains. A second risk is coming to be felt, however, as possibly even greater, i. e., the risk that popular ignorance and apathy will omit to take advantage in the field of government of the new devices and technical improvements which have been made available by the progress of science and experiment, and whose use is demanded by the increasing complexity of the problems with which government has to deal. In other words, observers are coming to insist that government, if it is to be efficient in an age of science, must be "scientific"; and at the same time they are coming to have grave doubts as to how far scientific government and popular government will mix.[6]

Administration by non-political technical experts is the contemporary answer to the challenge to bridge the gap between popular government and scientific government. In increasingly important fields of governmental activity, government impinges finally on the individual through the action of such experts: health officers who employ the methods and apply the standards of medical or sanitary science; building inspectors who are supposed to put into practice the approved results of engineering science; transportation and commercial experts who apply the findings of specialized economic investigations and analyses. The introduction of such expert administration has numerous

[6] William Kay Wallace, *The Passing of Politics* (New York, 1924), pp. 275–276.

obstacles of a political nature to overcome. It is impeded by the tradition of the spoils system, by the dominant emphasis on responsibility to public opinion at the polls, and by the prevalent technique of political practice; but it also meets an important limitation as a result of our tradition of government by law.

Reliance on law as the outstanding instrument of control over government has the necessary effect of elevating the courts into a position of ultimate supremacy. If law is to be effective as a means of control, there must be an agency to apply it and to invalidate or penalize governmental action which runs counter to its precepts. This agency is at hand in the courts. Because of the impossibility of a complete code of written laws supplied to the judges in advance to dictate their decision in every case, and in view of the judicial maxim that the law is competent to supply a rule for all controversies which may arise, a wide latitude is necessarily opened to the courts in shaping and developing the rules which they will apply to determine the validity of acts of other departments of government. This judicial supremacy is the corollary of our Anglo-American doctrine of the "rule of law." Originating in certain accidents of England's constitutional history, the doctrine of the supremacy of law was the earliest weapon seized upon by Englishmen in their resistance to Stuart absolutism at the beginning of the seventeenth century, and hence became fixed as one of the cornerstones of our Anglo-American tradition of civil liberty. Its effectiveness has been made possible by the doctrine that under the common law "every man, whatever his rank or condition, is subject to the ordinary law . . . . and amenable to the jurisdiction of the ordinary tribunals. . . . . Every official, from the prime minister down to a collector of taxes, is under the same responsibility for every act done without legal justification as any other citizen."[7] Granting that this statement of Dicey's is in some respects far too broad,[8] it still serves to set

[7] A. V. Dicey, *Law of the Constitution*, 8th ed. (London, 1915), p. 189.

[8] J. H. Morgan, introduction to Gleeson E. Robinson, *Public Authorities and Legal Liability* (London, 1925), pp. xlix–li.

in relief the control which the courts in common-law countries are able to exercise over administration. In so far as it is true that acts of administrative officials in the scope of their duties are subject to be questioned in the courts, it is possible to have the course of administrative policy defined in the final analysis, not by administrative officials themselves, but by the judges. The courts have it in their power, if they choose to exercise the power, to make themselves what Coke wished them to be, "superintendents of the realm."[9]

This is the situation which the newer agencies of scientific and technical administration have to face. The standards which they evolve for general application within their field, the determinations which they reach in specific cases, as a result of supposedly expert technical knowledge and training, must always meet the test of approval by the ordinary courts, which not only are without such specialized equipment, but are trained in an altogether different technique—the technique of common-law legal reasoning. That expert scientific judgment should thus be ultimately subordinated to judicial judgment is by no means the wholly unmixed evil that it is sometimes superficially thought to be. A technical agency dealing constantly with a highly specialized class of problems is always in danger of losing its sense of proportion at the points where its narrow field impinges on wider problems. The very refinement of its judgments often requires them to be touched off into coarser usefulness by reference to broader considerations than those which lie within its special province. The courts, as the agency charged with the application and development of the whole law having a sweep as broad perforce as the needs of society, seem well fitted to adjust the narrower judgment of specialists to the larger considerations which the habits and dominant desires of the community make it necessary or desirable to take into account.[10] But in the exercise of their power to effect such adjustments, they must use extraordinary tact and self-restraint if the special

[9] Campbell, *Lives of the Chancellors*, II, 237.

[10] See my *Administrative Justice and the Supremacy of Law* (Cambridge, 1927), p. 234.

advantages of expert administration are to be preserved unimpaired. This tact is all the more needful because, apart from statutory regulation, and even to some extent in the teeth of such regulation, the scope of the courts' power to disregard administrative policy is almost as wide as they themselves choose to make it. In the words of Professor Powell, "the limitations upon the reviewing power of the courts are and must be, in the last analysis, self-imposed ones."[11]

There was a period in the history of American law when the courts did not seem to appreciate the need for such self-restraint, and when they tended to set themselves up as substantially a board of directors for the administrative system,[11a] instructing finance officers how to keep their funds,[12] revising the audit of claims,[13] and passing upon the comparative merits of different methods of sewage disposal[14] and highway construction.[15] Obviously, law-courts are not fitted for such work,[16] and their

[11] *American Political Science Review*, I, 592.

[11a] "At the same time" [*i.e.*, after the middle of the nineteenth century] "we had developed a system of judicial interference with administration. Law paralysing administration was an everyday spectacle. Almost every important measure of police or administration encountered an injunction. We relied on taxpayers' suits to prevent waste of public funds and misuse of the proceeds of taxation. In many jurisdictions it was not uncommon to see collection of taxes needed for the everyday conduct of public business restrained by injunction . . . . . We seemed to have achieved in very truth a *Rechtsstaat*. Our government was one of laws and not of men. Administration had become 'only a very subordinate agency in the whole process of government.'" Dean Roscoe Pound, "Organization of the Courts," printed in *Bulletin of American Judicature Society*, number 6, at p. 2.

[12] State v. Hopkins, 12 Wash. 602; San Francisco Co. v. Brickwedel, 62 Cal. 641; Shaw v. Statler, 74 Cal. 258.

[13] Bd. of Supervisors of Richmond County v. Ellis, 59 N. Y. 620; Mixer v. Manistee Co., 26 Mich. 422; Miller v. Embree, 88 Ind. 133; Ferry v. King's County, 2 Wash. St. 337.

[14] Evansville v. Decker, 84 Ind. 325; Seaman v. Marshall, 116 Mich. 327; Ashley v. Port Huron, 35 Mich. 296; Louisville v. Norris, 111 Ky. 903.

[15] Gould v. Topeka, 32 Kans. 485; Dayton v. Pease, 4 Ohio St. 80; Prideaux v. Mineral Point, 43 Wis. 513.

[16] "In planning public works a municipal corporation must determine for itself to what extent it will guard against possible accidents. Courts and juries are not to say it shall be punished in damages for not giving the public more complete protection; for that would be to take the administration of public affairs out of the hands to which it has been entrusted by law." Cooley, C. J., n Lansing v. Toolan, 37 Mich. 152.

interference, however meritorious in individual cases, served to impede the efficiency of administration. More recently the courts themselves have apparently perceived this, and in many fields have restricted their interference to narrower limits. Their difficulty, however, has always been to find a satisfactory formula to define the point to which their control may advantageously extend, and beyond which its exercise becomes improper. The need for such a formula—or, if a formula be admittedly impossible, the need at least for a clear and adequate understanding of the principles governing the scope and limits of judicial review—registers one of the most pressing defects of the modern law.

One of the obstacles to the attainment of such understanding is the large number of different, and often contradictory, formulae which the courts have worked out in the past for application to particular situations. The number and variety of these formulae is largely the outcome of historical and procedural accident. The question of the proper scope of judicial review has presented itself in many different types of proceedings and has usually been determined with reference to the special requirements of the situation immediately in hand. The problem of review has thus not been faced as a whole, but has been dealt with piecemeal, resulting usually in a failure to meet squarely the central issues involved. Certain of the established formulae when extended as precedents have tended unduly to restrict the scope of review, while others have tended unduly to broaden it. Most embarassing of all, however, is the fact that the line has often been drawn on the basis of artificial and abstract considerations which conceal or confuse the substantial issues involved in the basic problem of review.

II

The courts frequently say that they are without power to revise or correct administrative action.[17] Language to this effect is particularly common in American decisions, where it is

[17] See Craig v. Leitensdorfer, 123 U. S. 159; Decatur v. Paulding, 14 Peters, 497; Public Clearing House v. Coyne, 194 U. S. 497.

thought that to admit the existence of a direct reviewing power in the courts would violate the constitutional dogma of the separation of powers.[18] This denial has, however, the bad effect of serving at the outset to conceal from the courts the real nature of what they do, and by placing it on a fictitious basis, of preventing the reasons for their power from being definitely weighed and understood. Yet in a proper sense there is sufficient ground for saying that the courts do not review administrative action. The statement is true if it means only that, apart from statute, there is generally no direct or immediate appeal possible from an administrative determination to the courts, by writ of certiorari or otherwise. Such an appeal has come to be very generally provided by statute in cases where the advantages of direct review are seen to be clearly superior to those of indirect, but it remains true that no such recourse exists at common law save in the exceptional cases where the adminstrative action in question is held to be "judicial" in such a strict and narrow sense that certiorari will lie.[19]

The statement that the courts have no power to review administrative action is of value in so far as it emphasizes that along the main line of its descent this power of the courts is indirect—that it springs from the procedural fact, referred to above, that as a general common-law rule it is possible to bring an action for damages against an official like any private person for acts committed by him in the discharge of his duties, and that the legality of those acts thereupon becomes a question for the decision of the courts as essential to the determination of his liability. The courts thus pass on the validity of official acts, not as such, but as a private question of conduct arising in a proceeding between man and man; just as they pass on the constitutionality of statutes, not in the exercise of a power of legislative review, but as an incident of their jurisdiction to decide controversies where the validity or invalidity of a statute happens to be of moment to the decision. In both

[18] United States v. Ferreira, 13 Howard 40; Gordon v. United States, 2 Wall. 561. See my *Administrative Justice and the Supremacy of Law*, p. 48.

[19] *Ibid.*, p. 43.

instances it only confuses the issue if the substantially revisory effect of the court's action is denied; but it is sometimes useful to emphasize the indirect manner in which it is exercised.[20] It is particularly valuable to emphasize that judical control over administration grew up as an incident of ordinary civil actions for damages, because it helps to explain how that control has come to be limited at certain points and expanded at others.

The typical illustration of court review of an administrative act in a damage suit is an action for false arrest against a peace officer or an action against a sheriff for levying on the goods of A under a writ of fieri facias against B. These are the instances which give rise to the claim that under our law the individual may have redress in the courts against illegal official acts. It is apparent, however, that the cases just mentioned give no occasion for the courts to review anything which can be described as administrative policy, or to interfere with what can be called the routine conduct of technical administration. All they involve is the examination of an isolated official act of the simplest kind, performed professedly in execution of the ordinary law, to determine its regularity or irregularity, when tested by the rules of that law. But the principle of official responsibility to private persons, if accepted, as our law has in fact accepted it, as a principle of general application, extends of course beyond such simple cases. Suppose, for example, there is a threatened cattle epidemic. Boards of expert veterinarians are authorized by statute to kill infected animals. May an owner of cattle killed by order of such a board ask a court to pass upon whether or not the cattle were diseased, in order to determine the lawfulness of the killing?[21] Superficially, the question is of the same character as the determination in a suit against a sheriff of whether the goods levied upon

[20] Judicial review also occurs in two situations which for the purposes of this paper it is not necessary to distinguish from review in actions for damages: (1) where the administrative agency must enforce its action through proceedings in the courts; and (2) where the administrative agency is allowed to sue for the expense of executing an order after its non-observance by the person to whom it was directed.

[21] See Miller v. Horton, 152 Mass. 540.

belonged to A or to B, but the implications are widely different; for if the courts consent to re-examine the question in the former case they will in effect be assuming the very function which for the sake of administrative efficiency was entrusted to experts. The difference in degree from the simple case has become so pronounced as to raise the question whether it is not substantially a difference in kind, calling for a different result.

Inevitably, therefore, the courts find themselves faced in damage suits against officials with the necessity of determining whether they will undertake to review routine administrative acts of a specialized or technical character. In other cases they find it necessary to decide whether they will review the correctness of administrative policy. Suppose, for example, that a municipal corporation, acting on the advice of its engineers, has weighed the advantages and disadvantages of a number of possible plans for sewage disposal, and has made its decision in favor of one which was reasonably supposed to be adequate but which, because of a building boom, became inadequate, and resulted in flooding the plaintiff's premises.[22] Here a determination of the liability of the officials raises the question of the soundness of the administrative engineering program. A similar question is raised where a recovery is sought on the ground that the plan adopted for the construction of sidewalks was defective in making the slope too great.[23] The courts, if they undertake to determine such questions, will be substituting their engineering judgment for that of the official experts.

The obvious desirability of establishing a zone of administrative freedom which the courts will not enter has frequently led to the application of more or less arbitrary rules as grounds for refusal. One of these, which has often been applied in England, is to extend to certain officers of state some share of the

[22] See Robinson v. Workington Corporation (1897) 1 Q. B. 619; Boynton v. Ancholme Drainage and Navigation Commissioners (1921), 2 K. B. 213; Atchison v. Challis, 9 Kans. 603; Peoria v. Eisler, 62 Ill. App. 26.

[23] Urquhart v. Ogdensburg, 91 N. Y. 67.

immunity of the sovereign from liability.[24] The policy behind this rule is doubtless the wise one which leads the courts to refuse review of administrative acts of a political nature, as for example, when they refuse to examine the correctness of a determination by the executive as to the location of a political boundary[25] or as to the necessity of calling out the militia;[26] but the rule is often so stated that it diverts attention from this question of judicial policy to the artificial question as to which officers of state can properly be held to share sovereign immunity and which can not. Thus in England it is held that the postmaster general is a servant of the crown in such sense as to be exempt from liability for the acts of his servants.[27] The same immunity was extended to certain commissioners charged with

[24] Todd, *Parliamentary Government in England*, 2d ed., vol. I, pp. 494–95. This doctrine is a survival which points back to an illuminating historical development. It used to be said on the authority of Y. B. 33–35 Ed. I (Rolls Series) 471, that "in old times every writ, as well of right as of possession, would lie against the king," Ludwick Ehrlich, *Proceedings against the Crown, 1216–1377*, p. 54, in Vinogradoff, *Oxford Studies in Legal and Social History*, Vol. VI (Oxford, 1921). To same effect *Mirrour of Justices* (ed. Maitland, 1893) Bk. I, chap. 3; so also Comyn's *Digest* (4th ed. by Kyd, Dublin, 1793), Vol. I, tit. "Action," C i, p. 140: "Until the time of Edward I, the king might have been sued in all actions as a common person." We now know differently. "There were no writs against the king. We are told so by Bracton," fol. 5b, 171b (Ehrlich, *op. cit.*, p. 26). "Throughout the reign of Henry III we see the principle constantly applied that whatever touched the king must be determined before him" (*ibid.*, p. 23). Furthermore, "in the time of Henry III the king's servants, if their acts which they claimed to be official were complained of, could not be proceeded against in the ordinary way except by the king's permission (special or general). For, right or wrong, their acts were the king's acts and as such could be complained of within the realm only to the king, or to bodies appointed by him for this purpose. . . . . But . . . . the king was gradually waiving his privilege with regard to the lower officials" (*ibid.*, pp. 110–11). Thus, for example, the Statute of Westminster, II, c. 13, "provided that persons illegally imprisoned by sheriffs should have their action by writ of false imprisonment, as they would have it against any other person" (*ibid.*, *loc. cit.*). The original theory survives in the doctrine that the acts of certain high officials are still the acts of the crown, and so exempt from liability.

[25] Foster v. Neilson, 2 Peters. 253.

[26] Martin v. Mott, 12 Wheaton 19; Ela v. Smith, 5 Gray (Mass.) 121.

[27] Lane v. Cotton, 1 Lord Raymond, 646, s. c. 12 Mod. 472; Bainbridge v. Postmaster General (1906), 1 K.B. 178.

building a bridge at Chelsea,[28] while it was held not to extend to the corporation of Trinity House, which superintends lighthouses and navigation.[29] It is obvious that such an attempt to draw a boundary line between two fixed classes of officials, those who are exempt from liability and those who are not, instead of attempting to distinguish between reviewable and non-reviewable questions, is a highly unsatisfactory way of limiting the sphere of court action, since it necessarily introduces issues having no substantial bearing on the judicial policy at stake. It does not appear to have gained a footing in the American precedents,[29a] although it seems to be generally accepted as law in this country, without much authority one way or the other, that "the president of the United States, the governor of a state, and other high government and state officials are not personally liable in a civil action for their official acts."[30]

Another method by which the English courts have sought to narrow the need for passing on questions of administrative policy has been by establishing a rule, very difficult of application, that civil authorities are liable in damages for *misfeasance*, but not for mere *non-feasance*. Thus in a case where relief was denied, Lord Justice Brett said: "The complaint here is not that injury is caused to the plaintiff by sewers constructed by the defendants being improperly constructed, but that the sewers are constructed in such a manner as, independently of their being in a good or bad state, to bring down sewage into his stream. The complaint, therefore, is of the way in which the sewers bring down sewage, and not of the state of the sewers. . . . . I will

[28] Queen v. McCann (1868), L.R. 3 Q. B. 677.

[29] Gilbert v. Trinity House (1886), 17 Q. B. Div. 795. Cases covering the subject matter of this paragraph are reviewed in detail in Gleeson E. Robinson, *Public Authorities and Legal Liability*, Chap. II. Some confusion results in Dr. Robinson's treatment from an apparent failure to distinguish between liability in contract and liability in tort; but see Todd, *loc. cit.*, note 21 supra.

[29a] *Cf.* Missouri Pacific R. R. Co. v. Ault, 256 U. S. 554.

[30] *American and English Encyclopedia of Law*, 2d ed., vol. 23, p. 375; Goodnow, *Principles of the Administrative Law of the United States* (New York, 1905) p. 399.

deal with it as if it were a question of a mandatory order. . . . . Ought we to do that unless we can see something definite which the court can direct the defendants to do? In my opinion we ought not do so."[31] On the other hand, in a case where the defendants, by turning new sewers into an old main so increased the flow of sewage as to damage the plaintiff's oyster-beds,[32] and in another where they had opened up a new channel without making it sufficiently deep,[33] their action was held to constitute misfeasance, and recovery was allowed.[34]

These cases illustrate that the distinction between misfeasance and non-feasance, while perhaps relieving the courts from the appearance of dictating affirmative action to administrative officials, does not really relieve them from having to pass on the policy of such action when once taken. While doubtless reducing the number of cases in which the courts must act, the distinction, in addition to being a phantom one, is not practically related to the real point of the difficulty, *i.e.*, the supervision of expert by judicial discretion. This is the crux of the problem and a much more fruitful solution was adopted in certain of the older American cases during the first half of the nineteenth century. This consisted in emphasizing the old distinction between administrative action which is merely "ministerial" from that which is discretionary or "judicial." Only for "ministerial" acts were officials to be held liable in damages; on the other hand, where their action required the exercise of discretion or choice, they were said to act judicially, and therefore to be entitled to the traditional immunity of judges from suit, in the

[31] Glossop v. Heston and Isleworth Local Board (1879), 12 Ch. Div. 102; see also Robinson v. Workington Corporation (1897), 1 Q. B. 619.

[32] Foster v. Warblington Urban District Council (1906), 1 K. B. 648.

[33] Boynton v. Ancholme Drainage and Navigation Commissioners (1921), 2 K. B. 213.

[34] For an elaborate review of the cases on the subject of this paragraph, see Robinson, *op. cit.*, Chap. IV. For a similar distinction in the United States *cf.* Wilson v. Mayor, 1 Denio (N. Y.) 595 and Mayor v. Furze, 3 Hill (N. Y.) 612. In the United States the distinction has come to be confused with that between "judicial" and "ministerial" functions (see *infra*): Bates v. Westborough, 151 Mass. 174; Blizzard v. Danville, 175 Pa. St. 479.

absence of bad faith or corruption.[35] Such a distinction stretches to the breaking point the conception of "judicial" action.[36] Thus the act of a mayor in calling out the militia was said to be "judicial,"[37] and the term "quasi-judicial" was applied to the action of a municipality in adopting a plan for a sewerage system.[38] Of the latter function Chief Justice Denio of New York said: "This duty is not in a technical sense judicial, for it does not concern the administration of justice between citizens; but it is of a judicial nature . . . . for it requires the same qualities of deliberation and judgment. It admits of a choice of means, and the determination of the order of time in which improvements shall be made."[39] Therefore it is "not subject to revision by a court or jury in a private action for not sufficiently draining a particular lot of land."[40]

[35] Seaman v. Patten (N. Y. 1805), 2 Caines, 312; Easton v. Calendar (N. Y., 1833), 11 Wendell 90; Downer v. Lent (1856), 6 Cal. 94; Fath v. Koeppel, 72 Wis. 289. These cases rest apparently on a suggestion of Sir Matthew Hale in Terry v. Huntingdon, Hardres, 480, as limited by Lord Holt in Groenvelt v. Burwell, 1 Ld. Raymond 454. A strong statement of the doctrine is found in Wilson v. Mayor, 1 Denio (N. Y.) 595 (1845). There a municipal corporation in grading two public streets, which formed an angle in which plaintiff's property was situated, raised the level of those streets so as to prevent the water from flowing off, whereby damage ensued to the plaintiff, who brought an action of trespass on the case against the corporation. It was held that the action could not be sustained: "Where a duty judicial in nature is imposed upon a public officer, a private action will not lie for misconduct or delinquency even if corrupt motives are charged. The same principle prevails where the party on whom the duty devolves, though not a judge, is clothed with discretionary powers to be exerted according to his sense of fitness or propriety. If such officers act corruptly, they are liable to impeachment or indictment." So in American Print Works v. Lawrence, 23 N.J.L. 590 at 600 (1851), the act of a mayor in ordering the destruction of buildings to prevent the spread of a conflagration was treated as "judicial."

[36] Sometimes it led to marked confusion in the minds of the courts. See, for instance, Ferry v. King's County, 2 Wash. St. 337, where the court reasoned that since the state constitution vested "judicial power" in a system of courts, the action of an administrative agency could not be "judicial" and therefore must be subject to re-examination and liability in the courts.

[37] Ela v. Smith, 5 Gray (Mass.) 121.

[38] Johnston v. District of Columbia, 118 U. S. 19.

[39] Mills v. Brooklyn, 32 N. Y. 489.

[40] Gray, J., in Johnston v. District of Columbia, *supra*.

It is, of course, impossible to draw any such sharp line between administrative action which requires discretion and that which does not. The act of a policeman in making an arrest and the act of a sheriff in making a levy—the typical cases where liability can be enforced in the courts—are both instances of acts which are discretionary in the sense of requiring the exercise of judgment. As a guide to the courts in defining the limits of the reviewing power, the distinction is therefore unsound and misleading. It served, however, one useful purpose: it called attention to the fact that in a growing class of cases the functions performed by administrative agencies are of an actually judicial nature; that is to say, they involve the direct examination and determination of personal and property rights. The licensing board which denies a man a right to practice a profession, the health commissioner who orders the destruction of a man's property, the utility commission which fixes the rates that may be charged by a railroad, are in effect adjudicating property rights in as full a sense as a law court when it grants an injunction or orders the abatement of a nuisance;[41] and that this is realized is shown by the usual requirement that such administrative action shall be taken only after notice and an opportunity for hearing.[42] "Quasi-judicial" administrative action of this kind differs radically from the functions of an old-fashioned officer like a sheriff in making an arrest or levy, and calls for the application of different methods and principles of review.

III

The doctrine that administrative officials are not liable in damages for "judicial" or "quasi-judicial" acts, coupled with an extremely broad interpretation of the word "judicial," for a time tended to diminish the exercise of judicial review in actions for damages.[43] Doubtless this had the effect of indirectly stimulating the provision of more direct and satisfactory methods of review, especially review by certiorari. There are many of the newer types of administrative action which a subsequent

[41] See my *Administrative Justice and the Supremacy of Law*, pp. 15–25.
[42] *Ibid.*, pp. 106–108, note.

suit for damages obviously affords no suitable or satisfactory opportunity to correct. This is true, for example, of a rate-fixing order of a utilities commission or of an order of a corporation commissioner regulating the financial structure of a corporation. In such cases it is impossible to estimate damages, and relief, if it is to be had at all, must be had before the taking effect of the order. The most effective way of providing such relief is by immediate appeal from the administrative tribunal to the courts, and the way was paved for such direct appeal, in spite of the separation-of-powers doctrine, when it came to be frankly recognized that administrative action can be in substance "judicial."

There is another advantage of such direct review which is not easily obtainable in common law actions for damages. Direct review, being in the nature of an appeal, affords the advantage of appellate procedure in that the scope of the review is limited to the points on which law-judges are equipped to be helpful. In appellate proceedings the whole case is ordinarily not open for revision, but review is as a rule limited to what are known as "questions of law." Such limitation of the scope of review is particularly desirable where the administrative action involved is substantially judicial in character, and where the officials discharge, in effect, the functions of a special tribunal of experts.[44] In such cases it is of the utmost consequence that what are known in law as the "findings of fact" made by the experts should only rarely be disturbed. The chief usefulness of such an expert body is as an agency for applying trained specialized judgment to evidence of a technical character, and this judgment is embodied in the weight and importance attached to such evidence and in the conclusions drawn by the experts therefrom. These conclusions, therefore, if they are to serve their purpose, ought not, in general, to be subjected to revision by a non-expert body.[45] The Interstate Commerce Com-

[43] See the language of the opinion in Green v. Mayor (1849), 6 Ga. 1.

[44] The courts have sometimes frankly referred to them as such, e.g., in United States v. Commissioner, 5 Wall. 563; Johnson v. Towsley, 13 Wall. 72.

[45] See language of the court in Steenerson v. Great Northern R. Co., 353 at 737, quoted in my *Administrative Justice and the Supremacy of Law*, pp. 72–73;

mission was crippled for years by the fact that its findings could be overhauled in subsequent equity proceedings in the courts.[46] The Federal Trade Commission stands in some such danger today.[47]

Direct appellate review of administrative determinations, whether by means of certiorari or otherwise, affords a far better opportunity for thus defining the points to which review can profitably be limited than is possible in an ordinary tort action for damages. In such an action the question of liability is tried before a jury, with a consequent tendency to throw open to re-examination all questions, including questions of fact, which have a bearing on whether or not the official act complained of was justified. The effect is frequently to subject the findings of the experts to the lay opinion of the twelve men in the box. This is illustrated by such a case as Miller v. Horton,[48] where a health-board's finding that horses were afflicted with glanders was overruled by a jury's opinion that they were not, in an action brought against the board for wrongfully putting the animals to death. The reason for such a result where review takes the form of a collateral action for damages against the official is doubtless largely historical. In the ordinary type of situation in which such damage suits grew up, the kinds of administrative action involved were not quasi-judicial, nor were the officers supposed to be experts. An officer like a sheriff held no hearing and made no findings. The finding of facts was, therefore, necessarily the task of the jury in the review proceeding, if there was to be a finding of the facts at all. In consequence, the re-examination in court of the facts on which the officials had acted came to be the rule. The obvious inconveniences which resulted were met, not by attempting to distinguish between the reviewable and non-reviewable points in a case, but by denying review altogether in those classes of cases where a complete re-examination would be clearly embarrassing, and by allowing it to

Granville v. Gregory, 83 Mo. 123, in *ibid.*, pp. 60–61; and White, C. J., in United States v. Louisville & Nashville R. Co., 235 U. S. 314, in *ibid.*, p. 162.

[46] *Ibid.*, p. 72, note.

[47] *Ibid.*, pp. 248–250.

[48] 152 Mass. 540; Lowe v. Conroy, 120 Wis. 151.

the full extent in the remaining cases.[49] This is doubtless one of the underlying explanations for the involved attempts of the English courts to draw a sharp line between officials who are subject to liability and those who are not, and between official acts upon which liability can be founded and those upon which it cannot be. Most of these distinctions, however, are unprofitable and artificial. Their effect is to preclude the right of review completely in some cases, while enlarging it unduly in others. But they are a natural consequence of the fact that judicial review took the typical form of a collateral personal action for damages. The introduction of direct methods of review, following the lines of appellate procedure, was necessary before any fruitful attempt could be made to develop correct principles of review.

The introduction of direct review procedure did not, however, follow until long after the American courts had adopted the doctrine that discretionary administrative action was "judicial," and so beyond the reach of civil liability. For the most part, it had to await the later development of such relatively modern administrative agencies as utilities commissions, civil service commissions, and industrial accident boards. In the interval there was a period lasting to about the close of the Civil War when court control of administrative discretion seems to have been, on the whole, relatively slight.[50] In this period the influence of the separation-of-powers doctrine was still strong, the damage suit was still the only common avenue for review, and this was foreclosed wherever the administrative action at issue was held to be discretionary, and so "quasi-judicial." But immediately following the Civil War there arose, as we know, a widespread tendency on the part of our courts to emphasize private rights against governmental encroachment, and a part of this tendency expressed itself in increased willingness to hold officials liable in damages. The judicial immunity of

[49] *Supra*, p. 286.

[50] Compare the general effect of such cases as Van Wormer v. Mayor (N. Y., 1836), 15 Wendell, 262; Green v. Mayor (1849), 6 Ga. 1; Downer v. Lent (1856), 6 Cal. 94; Cary v. Curtis (1845), 3 How. 236.

administrative officers was accordingly cut down at important points.[51] This process developed doctrines which were already deeply rooted at the time of the introduction of more direct methods of review, and which have often been carried over, not always happily, to govern the application of the latter.

The inroad on the doctrine of judicial immunity for discretionary official acts was made largely, although not altogether,[52] by raising the question of the limit of jurisdiction. Judicial immunity protects a judge of limited jurisdiction only for acts done within the proper scope of that jurisdiction; when he purports to act judicially, but steps beyond the allotted bounds of his jurisdiction, his proceedings are said to be *coram non judice*, and he is liable in damages as a trespasser for any injury which results.[53] This principle had been discussed in the early English cases as affording a test to determine the liability of administrative officials,[54] and it had sometimes been applied in the case of justices of the peace[55] and other minor judicial officers.[55a] It has been sharply criticized, and some courts have ruled that justices of the peace and other inferior judges are properly entitled to the same judicial immunity for acts in excess of jurisdiction which protects the judges of the superior courts.[56] In any event, where the jurisdiction of a justice of the peace to take action depends on the existence of a fact the determination of which forms an essential part of the proceeding

[51] McCord v. High (1868), 24 Ia. 336; Cubit v. O'Dett, 51 Mich. 347; Mechem on Public Officers, §642.

[52] In the cases cited in the last note, the ground of liability alleged was the absence of any other remedy for the redress of the injury to private rights.

[53] Sir Matthew Hale in Terry v. Huntingdon, Hardres 480; *cf.* case of the Marshalsea, 10 Coke Rep. 68b; Hill v. Bateman, Str. 711; Shergold v. Holloway, Str. 1002.

[54] Terry v. Huntingdon, *supra*; Groenvelt v. Burwell, 1 Lord Raymond 454, also reported in 1 Salkeld 263 and 12 Modern 386.

[55] Baldwin v. Blackmore, 1 Burr, 595; Cripps v. Durdin, Cowp. 640; Groome v. Forrester, 5 M. & S. 314; West v. Smallwood, 3 M. & W. 420.

[55a] Miller v. Seare, 2 Wm. Bl. 1145; Perkin v. Proctor, 2 Wilson 283: "where there is no jurisdiction, there is no judge."

[56] Calhoun v. Little, 106 Ga. 336; Thompson v. Jackson, 93 Iowa 376; Robert son v. Parker, 99 Wis. 652; Beu v. McKinney, 62 Miss. 187.

before him, he will not be held to have exceeded his jurisdiction merely by reason of an erroneous determination that the jurisdictional fact exists.[57] In such a case it has been said that "the power to decide protects, though the decision be erroneous."[58]

The doctrine of liability for excess of jurisdiction was extended to administrative officials; but, in the case of such officials, it was frequently held that jurisdiction was exceeded if in the opinion of the reviewing court there was an erroneous determination of a jurisdictional fact. The power to decide did not give protection in the event of an erroneous decision. In order to determine liability for a discretionary administrative act, it therefore was competent for the courts in a damage suit against the officer to re-examine his determinations of fact as to those matters on which the court regarded his jurisdiction as dependent; and if the court reached the view that such facts did not exist, he was held liable. A very broad field was thus once more open for review by the courts. Suppose, for example, that a statute vests a health board with power to kill diseased animals. The statute may be regarded as limiting the jurisdiction of the board to animals actually diseased, and as giving it no authority over healthy animals. On this view, the question of whether the animals killed were actually diseased becomes a jurisdictional fact, and so a matter of determination by

[57] Grove v. Van Duyn, 44 N. J. L. 654; Cave v. Mountain, 1 M. & Gr. 257; but in many cases no such distinction appears to have been drawn. See also Gwynne v. Poole, 2 Lutw. 387; Kemp v. Neville 10 C.B. (N.S.) 523 at 550; Britton v. Kinnaird, 1 B. & B. 432.

[58] Lange v. Benedict, 73 N. Y. 12 at 33; see especially pp. 27–31. See also Hunt v. Hunt, 72 N. Y. 217 at 229: "Jurisdiction of the subject matter is power to adjudge concerning the general question involved and is not dependent upon the state of facts which may appear in a particular case under that general question." "A magistrate who commits a party in a case where he has not any jurisdiction is liable to an action of trespass; but if the charge be of an offence over which, if the offence charged be true in fact, the magistrate has jurisdiction, the magistrate's jurisdiction cannot be made to depend upon the truth or falsehood of the facts, or upon the evidence being sufficient or insufficient to establish the *corpus delicti* brought under investigation," Selwyn's *Nisi Prius* (7th Amer. from 11th London ed., Phila., 1857), vol. II, p. 920, citing Cave v. Mountain, *supra*; Rex v. Bolton, 1 Q. B. 75.

the court,[59] although it is precisely the question which efficient administration requires should be left to the experts. The doctrine of jurisdictional fact thus opened the door to the unduly broad review which had been foreclosed by the original doctrine that the exercise of administrative discretion was protected by judicial immunity. It had the further disadvantage of leaving always to the courts to determine what facts were jurisdictional. Thus in one case the Supreme Court has said that the Interstate Commerce Commission has no jurisdiction over reasonable rates.[60] If this dictum should be followed out to its conclusion, as of course it will not be, it would mean that if the court should reach a different conclusion from that of the commission as to the reasonableness of a rate, the commission's determination would have been in excess of jurisdiction and therefore void. The doctrine of jurisdictional fact is the most unfortunate heritage from the older type of indirect review to the newer types of direct appellate review.

Of these, the most important is review by the writ of certeriorari, the traditional common-law method of removing proceedings for purposes of review from inferior tribunals into the courts of superior jurisdiction. The proceeding is substantially in the nature of an appeal,[61] and is heard and decided by the court without a jury. The way was prepared for the application of this writ to administrative determinations by a number of early precedents and by the doctrine that discretionary administrative acts are of a judicial nature. Nevertheless its availability for review of administrative action has generally had to await specific statutory authorization. Under such statutes it has become, in the state jurisdictions, perhaps the most usual method for reviewing the orders of public utilities commissions, civil service commissions, industrial

[59] This view was rejected by Lord Holt in Groenvelt v. Burwell, 1 Lord Raymond, 454. It was applied by Lord Kenyon in Warne v. Varley, 6 Durnford & East 443, because of the special wording of a statute.

[60] Interstate Commerce Commission v. Louisville & Nashville R. Co., 227 U. S. 88. For use of the doctrine of "jurisdictional fact" to reach a desirable result, see Ng Fung Ho v. White, 259 U. S. 276.

[61] Groenvelt v. Burwell, 1 Lord Raymond, 454.

accident boards, and similar agencies. It is obviously applicable, however, only to administrative action taken in judicial form after a hearing, or where there is at least a record upon which the writ can act. It is thus not available for review of administrative action taken in the exercise of powers of summary enforcement.

For some reason, certiorari has not secured a footing among the ordinary forms of review available in the federal administrative system.[62] Its place is there supplied in the most important instances by statutory forms of injunction. The injunction proceedings by which orders of the Interstate Commerce Commission, the Federal Trade Commission, and the postal authorities are tested in the courts are, however, like certiorari proceedings, substantially appellate in character; and the courts are limited, or have usually limited themselves, to the consideration of questions properly arising on appeal.

Finally, standing more or less apart from other methods of review, are mandamus and habeas corpus proceedings. The importance of the latter is practically limited to the review of determinations of federal immigration officials. The use of mandamus, while available in a much larger variety of cases, is narrowly restricted both by historical accident and by judicial policy. The policy seems clear. Where the law allows a field of discretion to an administrative agency, there may be a number of possible ways in which that discretion can legally be used, and the effect of mandamus would often be to compel its exercise in one particular way. To issue the writ in such a case would amount to an assumption by the courts of the task of dictating the policy and directing the discretion of an executive agency. Or, again, a negative decision reached by an ad-

[62] See Degge v. Hitchcock, 229 U. S. 162, where the Supreme Court said: "It is true that the postmaster-general gave notice and a hearing to the persons specially to be affected by the order, and that in making his ruling he may be said to have acted in a quasi-judicial capacity. But the statute was passed primarily for the benefit of the public at large, and the order was for them and their protection. That fact gave an administrative quality to the hearing and to the order, and was sufficient to prevent it from being subject to review by writ of certiorari."

ministrative body on a ground complained of as improper might perhaps equally well have been reached on a proper ground. In such a case the courts cannot assume that the administrative body acted on the improper ground so as to justify issuing the writ. Doubtless these reasons of policy are, however, strengthened by purely historical considerations. It was in mandamus proceedings that the American courts seem first to have become aware that they were being asked to review administrative discretion. They took cover under an attempted distinction between direct review by mandamus and indirect review in a damage suit, Chief Justice Taney saying: "If a suit should come before this court . . . . the court certainly would not be bound to adopt [the determination made by] a head of a department, and if they supposed his decision to be wrong, they would of course so pronounce their judgment. But their judgment . . . . must be given in a case in which it is their duty . . . . to ascertain the rights of the parties in the cause before them. The court could not entertain an appeal from the decision of one of the secretaries nor revise his judgment in any case where the law authorized him to exercise discretion and judgment."[63] The shadow of this decision has fallen across the use of mandamus even in cases where there would seem to be no policy against issuing the writ.[64]

The introduction of direct methods of review has made it at once imperative and possible, as it was not imperative under the indirect system, to consider frankly the policy involved in judicial control over administration. The essence of that policy, as we saw at the outset, is to maintain law as an agency of control over governmental discretion. This end is not furthered by the mere substitution of the opinion of the judges for the opinion of administrative experts as to issues and matters peculiar to individual cases. Such substitution does not subordinate discretion to law; it simply sets the discretion of an un-

[63] Decatur v. Paulding, 14 Peters, 497.

[64] But for a willingness to employ the writ in a proper case, see Board of Dental Examiners v. People, 123 Ill. 227; State Board v. White, 84 Ky. 626; State v. Adcock, 206 Mo. 550.

qualified agency in the place of a qualified one. It piles one discretionary authority on top of another. The subordination of discretion to law means its subordination to rules of a stable character and of general application. Therefore the first consideration which should go toward determining the scope of judicial control is that it should be limited so far as possible to the enforcement of general rules. The discretion of the judges will be sufficiently employed in evolving and applying such rules, without attempting to revise expert determinations of special questions of fact.[65] Evaluations of evidence and conclusions of fact are essentially a matter for administrative discretion as distinguished from law, and, when so understood, clearly belong, even under the rule of law, to the officials. The courts, if left free to revise administrative determinations on no more accurate grounds than their private opinions as to the facts of particular cases, not merely will substitute untrained for technical judgments, but will also inevitably overlook that laborious development of general rules which under a sound division of labor is their proper task.[66]

Under direct appellate review procedure, the limitation of court review to questions of law, including, of course, the question of whether the administrative finding was within the bounds of rationally possible inference from the evidence, is relatively easy. This does not mean, however, that it takes place automatically. The influence of the inherited doctrine of jurisdictional fact constantly tempts the courts in injunction and certiorari proceedings to re-examine and reach their own conclusions upon issues which have no connection with legal rules.[67] This tendency can be checked, up to a certain point,

[65] "A judge ought to act conformably to law and not according to discretion," Comyn's *Digest* (4th ed., by Kyd, Dublin, 1793), vol. IV, p. 435, tit. "Justices," I, i.

[66] See my *Administrative Justice and the Supremacy of Law*, pp. 200–202.

[67] Compare the remarkable decision in Ben Avon Borough v. Ohio Valley Water Co., 253 U. S. 287 (1919), where the Supreme Court apparently held that court review on the facts is a matter of constitutional right, at least on certain issues of a technical character which have a bearing on constitutionality.

by statute; it can be completely checked only by the tact of the courts themselves, and by their understanding of the nature and purpose of their part in the administrative process.

Direct review is, however, not applicable to all types of administrative action. It can be applied only in those cases where the administration holds a more or less formal investigation and makes findings which can constitute a record for the reviewing court. Where the administrative action is summary, and based on no formal finding of facts, the old method of indirect review by an action for damages remains the only available channel of relief. This is the case, for example, where a health board has summarily destroyed property on the grounds of immediate danger of disease. Here the court can obviously not be bound by administrative findings, since in a formal sense there are none. But it does not necessarily follow that the officials' opinion of the facts, as disclosed by their action, should be completely open to be re-examined and disregarded by a jury. It would seem that in such cases, at least where the question is one for expert or technical judgment, the jury should be limited to the question of whether the officials acted in good faith, i.e., with reasonable and probable cause.[68] Adequate protection would thus be afforded to the interests of the injured individual without subjecting technical conclusions to the untrained judgment of a jury.

Where summary haste is not required, the largest opening for improvement in the existing procedure is to extend the requirement of notice and hearing as a preliminary to administrative action.[69] This would have two advantages: first, the advantage of fair play to the person whose rights are affected, and, secondly, the advantage that it would pave the way for direct rather than indirect review.[70] This result, eliminating

[68] This is substantially the rule followed in the older cases which went on the ground of "judicial" immunity; see also Raymond v. Fish, 51 Conn. 80; Forbes v. Board of Health, 28 Fla. 26; Seavy v. Preble, 64 Me. 120.

[69] See Goodnow in *Rep. Amer. Bar Assoc.* (1916), xlvi, 414.

[70] This would obviate such as a decision as People *ex rel.* Copcutt v. Board of Health, 140 N. Y. 1.

the part which in a damage suit must perforce be played by the jury, is especially desirable in all cases of action requiring specialized official judgment.

One final note of caution is necessary. In all that has been said the expertness of expert administrators has been taken for granted. As matters stand, it may be doubtful whether the assumption is fully in accord with the facts. A recent enumeration mentions a commissioner of health in an American city who was a harness-maker; a public utilities commissioner who was a barber; a commissioner of sanitation who was a house-mover; and another commissioner of health who was an undertaker.[71] The correction of this state of affairs rests, not with the courts, but with the appointing or electing power. The law, however, inevitably adapts itself to the conditions which it finds, and before we insist that expert administration be relieved from hampering interference by the judges, we should make sure that its expertness is above suspicion.

[71] Raymond B. Fosdick in *New Republic*, xxvi, 152.

THE POLITICAL BUREAUCRACY OF FRANCE SINCE THE WAR

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To comment upon the far-reaching effects of modern warfare upon national life is in these days commonplace. Nevertheless, nearly ten years after Versailles, countless ramifications of the World War's long-term effects remain unexplored. Silent but profound social and political readjustments were set in motion which are only now beginning to be studied by trained observers of human institutions, while the public at large scarcely suspects what is going on.

The administrative organization of France has not escaped these subtle processes. A bureaucratic inheritance surviving a half-dozen political revolutions, it has perhaps been more deeply shaken by events of the last fifteen years than in any period of similar length since the French Revolution itself. Some of these changes bid fair to modify not only the popular attitude toward the ubiquitous *fonctionnaire*, but the organization and spirit of the civil service as well.[1]

For a proper understanding of the causes and significance of this administrative evolution, we must revert for a moment to the scene as it appeared in 1914. Then the public service of France was a highly centralized hierarchical organization, with a democratic façade, but resting none the less upon the imperial foundations laid by Napoleon. There were as many as 900,000 persons in public employment, including the staffs of the *départements* and the communes.[2] As in America to-day, the man in the street was sure this number was excessive. He remembered, doubtless, that France had done very well with 40,000

[1] The pages that follow are based upon materials gathered and direct observations made by the writer during a two-year sojourn in France (1920–22), and again during the year 1927 as traveling fellow of the Social Science Research Council.

[2] Less than 700,000 were on the payroll of the central government.

civil servants in Balzac's day, when the population of the country was only a fourth smaller than in 1914. Why, then, were twenty times as many needed in the twentieth century? As a matter of fact, the French public service made use of a staff which was, in proportion to population, no larger than the English or the American, especially if it be remembered that over 150,000 public school teachers and several thousand telegraph and telephone employees were among the 900,000 civil servants mentioned.[3]

But the Frenchman also grieved, and justifiably, because this administrative machinery, carried over largely from past political régimes, handled his business with exasperating slowness; because his inquiries and requests for service were frequently left to gather dust in the antiquated wooden files of a ministry in Paris; because red tape was seemingly endless; because, in short, the governmental affairs of the nation were subject to excessive control and tutelage by the capital. The causes of these grievances are too well known to students of comparative political institutions to need any elaboration here. It is not so widely known, however, that most of the public personnel was recruited, not only from the solid bourgeoisie, but, geographically, from that part of France—the region south of the Loire—least touched by modern industrial development. Nearly every middle-class family in southwestern France and the *Midi* looked forward to placing at least one son in the service of the state; this, in spite of the fact that the state was a niggardly paymaster. Why? Mainly because a government post met the average Frenchman's urgent desire both for social prestige and for security of economic position.

Signs of discontent began to reach the surface of French politics as early as 1906. Industrial wages and salaries had doubled since 1850, but the government's scale of compensation to its employees had increased by only insignificant amounts. Recruitment for most of the posts above the lowest rungs of the

[3] Cf., for interesting comparative data on the size of national civil services in Europe, *Le Bulletin de la Statistique générale de la France*, July, 1922.

administrative ladder involved a rigorous examination covering too wide a range of scholastic knowledge for the scope of duties and responsibilities likely to be required of the appointees for years after entry into governmental employment. Promotion, at best, came very slowly, and especially after the Dreyfus case let loose its insidious poison upon French politics, it was frequently thwarted by family or religious or partisan considerations. What had appeared like "*le paradis*" on the outside often proved to be "*l'enfer*" on the inside, a place of routine stagnation, with little stimulus or outlet for the latent initiative and resourcefulness in the élite of a nation's youth.

Notwithstanding the timid steps toward territorial decentralization taken in certain statutory measures passed after 1870, Paris could still meddle, when the present century dawned, in some of the most minor details of provincial and municipal administrative policy.[4] Hierarchical control by way of the ministry of the interior and the prefects was largely responsible for perpetuating the traditional bureaucratic notion that conformity to the regulations in *all* cases was the essence of successful (and to the *fonctionnaire* least troublesome) administration. The whole system, as M. Herriot once illuminatingly expressed it, was an imperial mosaic, growing more and more out of harmony with the spirit of the republican constitution of the country. And one remembers the celebrated boast of a French minister of education that it was then three o'clock, and all the pupils in the third grade throughout France were composing Latin verse!

These shortcomings aside, French pre-war public administration had its admirable qualities. It was justly noted for its high standard of integrity, for the superior technical preparation of its scientific and professional staff, and for the extent to which it utilized university specialists and teachers in the upper reaches of the scale. Nowhere could one find a higher level of culture among public administrative officers. Whatever

[4] Among these decentralizing or "deconcentrating" measures the most important were the law of 1871 (applying to the *départements*), and that of 1884, known in France as the "municipal code."

might be alleged about the slow-moving habits of French bureaucracy, or about its seeming obliviousness to the public's convenience, it was, after all, the civil service that served to mitigate the harmful effects of ministerial instability and partisan intrigue in the parliamentary régime.

The discontent referred to above had manifested itself in two interesting movements for administrative reform. The first was known as "regionalism," or territorial decentralization by creating twenty-five or more regional districts between the central government and the local centers, with a view to reviving some of the historic vitality of the old French provinces and at the same time reducing congestion and excessive control at Paris. The other movement, i.e., administrative syndicalism, sprang from the ranks of state servants themselves and proposed a functional decentralization of authority by bringing the personnel of all grades directly into the business of determining administrative policies.[5] Limitations of space will not permit us to deal with the regionalist movement, except merely to say that there was much agitation and that an abundant literature on the subject appeared, but without leading to any action. The second phenomenon, however, is of vital significance, for it marked the beginnings of a campaign among French public employees which has not ceased to this day, but on the contrary is steadily growing stronger.

The miserably paid *fonctionnaire*, spurred on by skillful leaders who were strongly influenced by the industrial syndicalism of Georges Sorel and his school, developed a professional organization which, by 1911, included 500 associations, federated in turn into sixteen dnoɹƃ-units, whose membership absorbed at least two-thirds of the public personnel of France. This movement may be termed a revolt, not merely against the

[5] French books and brochures on both of these movements are legion. On regionalism the most complete accounts are Charles Brun, *Le Régionalisme* (Paris, 1911), and M. Bellet, *Rapport parlementaire, Chambre des Députes, ann. s. o.* 1923, No. 6144. On administrative syndicalism probably the best treatment of the pre-war period is Georges Cahen, *Les Fonctionnaires* (Paris, 1911). There is no satisfactory general account of developments since the war.

deplorably low salary scales then in effect, but also, and perhaps more strikingly, against the pernicious practice of parliamentary politicians interfering with civil service appointments and promotions.[6] As the ultimate weapon of attack upon the "bourgeois state," the strike was proposed, and unsuccessful strikes of groups of postal workers took place in 1906 and 1909. Despite demands from the socialists in Parliament, made repeatedly during the decade ending with the war, no legal recognition of the right of public employees to strike under any conditions was granted.

In point of fact, the overwhelming majority of civil servants were not primarily interested in strikes or in the flamboyant slogans, "the postoffice to the postmen," and "the schools to the school teachers," employed by the doctrinaire agitators in the movement. What the rank and file wanted was the establishment of a general personnel code which would guarantee appointments on the merit basis and insure promotions regularly and without favoritism or political interference. The *petits fonctionnaires* felt that they had just grievances which could get no hearing inside the "hierarchical oligarchy" that ruled the central administrations. But by insisting upon the insertion of a clause outlawing the strike, upon which the dominant leaders of the civil service staff associations would not yield, every cabinet from 1906 to the war was able to defeat proposals for a general statute setting up rules of recruitment, promotion, and discipline uniform for all administrative services of similar character. This question was still in suspense in 1914, although an increasing number of ministries had individually put into operation by decree a definitive procedure governing appointments and advancement and affording certain important guarantees against *l'arbitraire*, the gist of which at least partially satisfied the syndicalist leaders. In addition, electoral pressure by the larger staff associations (postmen, *instituteurs*, etc.) upon candidates for the Chamber of Deputies was enough to wring

[6] While this was the nearest French approach to our American spoils system, it was less pervasive and more a matter of seeking and granting family and personal favors than of strict partisanship.

from the government a reluctant promise to adjust to the rising cost of living salary schedules that had remained virtually unchanged since 1850. By 1914 substantial increases had actually been voted to the postal employees and a few other small groups of civil servants.

Even if the outbreak of war had not interrupted these piecemeal reforms, changing economic and social conditions in France would have compelled something more drastic. For it was already becoming difficult to attract competent men into many of the important state services, such as the ministries of finance and public works. In occasional instances the number of candidates at competitive examinations had dropped to fewer than the number of vacancies to be filled, whereas ten years earlier eighty candidates for one vacancy had actually presented themselves.[7] In its issue of May, 1913, *La Tribune du Fonctionnaire* called attention to the ominous fact that young men were then competing for the public service in the spirit of looking for a *pis-aller*, and that desertion from public employment was becoming alarmingly frequent, not only at the base, but at the top of the scale as well. It concluded by pointing out the anomaly of the government's proposal of a credit of 500 million francs for the fabrication of war materials, while evincing no serious interest in the critical predicament of its own employees.

The impact of war could only aggravate the crisis in the government services. On the one hand, as the state extended its control over multitudinous aspects of the economic life of the nation, departmental staffs had to expand numerically while they deteriorated qualitatively. Scores of more or less permanent committees, councils, "offices," and so on, were set up to advise and accelerate the slow-acting administrative departments.[8] For the first time, women were admitted in large

[7] P. Harmignie, *L'État et ses Agents* (Paris, 1911), p. 235, and *La Tribune du Fonctionnaire*, May and October, 1913.

[8] Cf. P. Renouvin, *Les Formes du Gouvernement de Guerre* (Paris, 1927), pp. 51–92, for an excellent summary of the war-time expansion of state services in France.

numbers to public employment, and all too often they entered upon their duties without any technical preparation. For a time syndicalist agitation among the civil servants was suspended for patriotic reasons, but the economic dislocation soon forced the rank and file of the government staffs to renew pressure upon the government for some sort of relief. All they obtained was a small cost-of-living bonus that only partially compensated for the decline in the value of the franc which began slowly but certainly in the later part of 1915. Loyalty to their obligations toward the harassed nation, however, kept all classes of civil servants from resorting to strikes or other weapons of urgent insistence against the government; so that the termination of hostilities found the mass of civil servants in economic straits already serious and destined to grow steadily worse during the disturbed years that have followed since the peace.

That this crisis has been terrible no one can doubt who has recently visited the shabby, impoverished-looking, care-worn men and women who sit behind the desks in those spacious, but dimly-lighted, government buildings in the French capital. During the spring and summer of 1927 the writer had occasion to discuss the human aspects of this crisis with more than sixty civil servants of all ranks, ranging from sulbaltern postal employees and *instituteurs* to middle-grade clerks, and then on to the bureau chiefs and directors at the summit of the administrative pyramid. With varying emphasis and degrees of bitterness, they all told the same dreary tale of a hand-to-mouth existence, of being forced to resort to all sorts of thrifty subterfuges in order that their families might have even the barest necessities of life. In the cities, where the situation is naturally worse than in the rural communities, it has not been uncommon for the families of subaltern state employees, like letter carriers and copying clerks and customs inspectors, to have to content themselves with one meal a day for weeks at a time. There have been several instances of cultured *lycée* professors turning taxi drivers. Bureau chiefs and teachers in schools and universities have been obliged to piece out their insufficient salaries by giving private lessons, doing miscellane-

ous public lecturing, or resorting to "hack" journalistic writing, although many of these higher officials have neither the time nor the taste for this outside work.[9] In thousands of middle-class homes where the chief breadwinner is employed in a government department, many of the simpler modes of recreation and cultural development, such as the theatre and concerts and books, are no longer within the reach of the meagre household budget. Despite traditional French thrift, hundreds of these families have been reduced to a condition that one could scarcely dignify as that of "shabby gentility." Small wonder, then, that last year brought forth scores of protest meetings, both in Paris and elsewhere, called by embittered civil servants, and that these spirited gatherings often gave voice to earnest proposals for concerted pressure upon the government for the immediate redress of grievances.[10] Small wonder, too, that strikes were more than once threatened and that several temporary local strikes, especially in the postal, telegraph, and telephone administration, were actually attempted as a desperate but dubious means of securing relief. Resort to strikes and the practice of "sabotage" emanated chiefly, it is true, from certain communist nuclei that have sprung up among the petty public employees at Paris; but at that they were merely extreme symptoms of the *malaise* that prevailed throughout the *milieu des fonctionnaires*.

A few simple statistical observations will suffice to corroborate in cold figures the human suffering behind these insistent plaints. By 1919 the cost-of-living index in France, taking 1914 as the base, had reached 240; but a special government commission, appointed after considerable delay to revise salaries in the civil service, was willing to recommend that they be merely doubled, with a minimum of five francs a day for all, which gave partial satisfaction to employees at the bottom of the scale, but left those in the middle and higher ranks with only absurd increases. As the cost of living mounted

[9] *L'Europe nouvelle* devoted its entire issue of March 26, 1927, to "*La Crise des Cadres de la Nation.*" In this may be found statistical data on the suffering both of public servants and of administrative efficiency since the war.

[10] The writer attended several of these meetings, at one of which dire threats were hurled at "Poincaré and the banker clique who now rule France."

steadily during the period while the *Bloc National* was in control, the embittered *fonctionnaires* carried on a militant campaign before Parliament and the cabinet for a thoroughgoing "revalorization" of their salaries. But the Poincaré government, interested more in the Ruhr and Morocco and Syria than in social justice, followed a temporizing policy. New investigations were repeatedly promised, but it was not until October, 1924—well after the May elections had brought in M. Herriot—that any genuine inquiry was undertaken. Another long year passed before relief came, and a niggardly relief it proved to be: salaries for most, but not all, categories of civil servants were to be raised merely 25 to 30 per cent above the 1919 levels, whereas the cost of living had since then more than doubled. Stating the matter more generally, prices had quintupled since 1914, but the remuneration of state employees had barely tripled.

The salary crisis came to a head in the summer of 1926 with the precipitate drop of French exchange to fifty francs to the dollar. If this decline had not been stopped and tentative stabilization at twenty-five francs to the dollar achieved by the new *Union Nationale* cabinet, the resentment of the *fonctionnaires* might have assumed violent form; for without some drastic "sliding scale" policy on the part of the government, its administrative staffs could hardly have eked out any sort of living. But stabilization alone could not bring adequate relief. For with the retail price level at 600, the salary scale in the public service reached only 300 for the middle and higher ranks and around 500 for some, but not all, of the subordinate classes. As a stop-gap, a law was hurriedly passed in August, 1926, which granted a 12 per cent supplementary indemnity to the subordinate employees, and made general the "coëfficient" of three over the 1914 scale for the upper-grade officials. Meanwhile, delegations from the *Fédération des Fontionnaires*, representing over 200,000 members, besieged the ministry of finance with insistent demands for further relief. Once more a special commission was appointed, but the government categorically announced in January, 1927, that 300,000,000 francs ($12,000,000) represented the maximum credit that would be

available for salary revision. Nevertheless, this commission, strongly influenced by the straightforward argumentation of delegates representing the great mass of civil servants, undertook a comprehensive reclassification of salary schedules calling for an aggregate additional expenditure of a billion and a quarter francs ($50,000,000). This classification, which the government has provisionally accepted, reduces from 483 to 42 the number of different salary schedules—a commendable effort in the direction of similar payment for similar work, regardless of departmental barriers.[11] But it does not provide for anything like a complete revaluation of salaries. The new rates of pay are to range from 8,000 to 80,000 francs, or, in American terms, from a little over $300 to not quite $3,500. Nor is the cost of living appreciably lower to-day in France than in the United States. For the upper crest of officialdom, in particular, the purchasing power of these salaries is but slightly more than half what it was before the war. A highly trained state engineer, after years of service, may hope for a maximum salary, not counting small allowances for dependents, amounting to only 50,000 francs; a distinguished professor at the Sorbonne, 54,000 francs; an inspector general in the ministry of finance, 60,000 francs. These examples are typical of what the present French cabinet claims is the most it can do for the administrative and educational élite of the nation—an élite upon whose shoulders rests the perpetuation of the greater part of French science and culture.

The precarious material situation of these men is aggravated by other consequences of monetary inflation and wartime profiteering. In pre-war days, it was the normal thing for most government officials to supplement their official salaries by family inheritances; they were, on a small scale, *rentiers*. To add to their present misfortunes, the post-war depreciation of the franc has virtually swept away this means of revenue, and

[11] While at the date of writing (February, 1928) this reclassification plan has not received its final detailed form, it will likely be accepted substantially as reported. Cf. the preliminary report of the Martin Commission, reproduced in *La Tribune du Fonctionnaire*, June 11, 1927.

they are thrown back almost entirely upon their meagre salaries. In the meantime, the living standards for the industrial and professional classes are now appreciably higher than they were before the war. Hence, by comparison the *fonctionnaire* views his plight as worse than it actually is. The result is to breed a class of "mean" petty officials, with an exaggerated sense of grievance, eager to snatch at every *pourboire* that is indiscriminately proffered by the passing tourist from overseas. Demoralization permeates the atmosphere of civil servant councils, and their leaders breathe forth imprecations upon a government which insists that its colonial, military, and debt obligations prevent the granting of further relief.

Now this is a situation which cannot help having a most depressing effect upon the morale of the public service. Young Frenchmen of to-day, seeing the sorry status of the servants of the Republic, are no longer turning toward government work. Instead, they are "colonizing upon the boulevards." A spirit of freedom and initiative, produced by the war, is taking hold of French youth. Life seems too short for long years of patient and prudent effort that at best will never bring more than a paltry compensation. Thus the call for candidates for government posts often does not yield as many applicants as there are vacancies to be filled. This is true even of the magistracy and the foreign service, where salaries are relatively good. In discussing the budget in the Chamber (November 27, 1926), M. Painlevé called attention to the fact that "many posts" were "deserted." Before the war, for example, in the ministry of labor 150 candidates ordinarily presented themselves at each competition for four or five vacant clerkships; to-day there are scarcely 30 candidates. In 1912, there were 28 young men from the École Libre des Sciences Politiques competing for four vacancies in the Council of State; in 1920, 30; while in 1926, only 13 competed, and the showing they made was so mediocre that only four were appointed, two vacancies being left unfilled.[12] The big importing and exporting houses offer flattering

[12] From data furnished the writer by the secretary-general of the Council of State.

opportunities for making fortunes in Africa or Indo-China and lure ambitious youths away from the state colonial service; so that the École Coloniale is experiencing the greatest difficulty in finding promising young men willing to submit to its rigorous course of training for distant posts that offer little pecuniary inducement. Two-thirds of the graduates of the École Polytechnique in Paris are going elsewhere than into government service. It has even been necessary for certain examination boards to lower the standards of competition in order to certify a sufficient number of men for posts that must be filled if essential government services are to be carried on. And in a number of departments, like that of education and fine arts, it has proved necessary to postpone the retirement age from sixty-five to seventy because of the scarcity of teaching material. Last summer an eminent professor in Paris stated to the writer that resignations of *lycée* teachers, unheard of before the war, are numerous nowadays. One of his former students, he went on to say—a young secondary school instructor with an *agrégé* (the highest pedagogical degree granted in the French educational system)—had recently accepted an attractive position with a large insurance company, although the young man knew absolutely nothing about the technical side of insurance. "You are an *agrégé*," said the manager; "well that is enough; you can give us many new ideas!"

The failure of the government to carry out its promises, often repeated since 1913, to raise the scale of remuneration for secondary school teachers gave rise last June to a famous "examination strike" of over 200 of these mild-mannered and long-suffering members of the Parisian intelligentsia. Although their professional association is the most conservative of all the French teachers' groups, even it lost all patience with the government and voted to refuse to serve on the examining boards for 8,000 *lycée* graduates who were candidates for admission to the University of Paris. The press made much of the incident, conservative papers, especially, being at a loss to understand why "professors," of all persons, should resort to the horrid weapon of "direct action." "Why not?" retorted their secretary.

"Since dignified methods of protest have availed us nothing, since many universities, even, have not yet paid us the modest fees due us for serving on the examining boards of a year ago, we have been forced to this dramatic means of showing our just resentment."[13] Though the ministry of education boasted of how it was able to find substitutes for "the strikers," the examination procedure seriously suffered, and public opinion became outspoken in its sympathy for the shabbily treated pedagogues, who, partially as a result of the incident, have since received some relief.

Speaking broadly, however, it is the abnormal exodus from the public service that is causing the greatest alarm among those who appreciate the importance of manning the state services with highly trained and experienced officials. As never before in the history of the French nation, state engineers, technical experts in public finance, trained jurists, and other officials are emigrating toward banking, industry, and the legal profession. In the latter circles, the attraction is a scale of remuneration often ten times as high as the government will pay. No longer can the state expect to keep up the tradition of men like Talleyrand and Jusserand, who served on for long years despite the changes of the political weather vane. For it has become exceedingly difficult to keep high officials in the government service longer than three or four years.

The following striking examples will suffice to show the rapid turnover since the war. On the Council of State four of the staff resigned in 1918–20, and seventeen in 1921–23; the directorship of the hydro-electric service, a highly technical and important post in the ministry of public works, changed hands five times in eight years; the headship of the "distribution of funds" in M. Poincaré's own ministry has passed through four different hands since 1919.[14] An equally high turnover has

[13] Substance of a conversation with M. Beltette, secretary of the *Syndicat national des Professeurs de Lycée*, Aug. 11, 1927.

[14] This data was obtained in part directly from personnel chiefs in the ministerial departments concerned, in part from L. Marlio, "L'Exode des Hauts Fonctionnaires," in *La Revue des deux Mondes*, Sept. 15, 1927.

marked the direction of French secondary education, where, certainly, continuity of supervision is desirable. While this drift of governmental personnel toward business is asserted by many thoughtful Frenchmen to be advantageous from the point of view of facilitating the adaptation of business to the objectives of government policy, no one argues that its effects upon the efficiency of state services are anything but harmful. Moreover, the full measure of the injury will hardly be felt until the pre-war generation of civil servants has completely disappeared from the scene.

In the meantime, a new type of public employee, without the old cultural background, is emerging. From being predominantly *bourgeois* in its personnel, the army of civil servants may before long be recruited as much from *le peuple* as from the middle classes. This, urge socialist and communist leaders, is excellent, for it will at last give the public service a really democratic character. Doubtless this view may in theory be easily sustained; but until the French system of educational scholarships can be sufficiently extended to make educational opportunity actually democratic, one wonders whether the nation will not suffer from the transitional deterioration of its administrative personnel.[15] Certainly the entry since the war of thousands of crippled war veterans into the public service, without much regard to their individual qualifications—a few of them, as I was told upon good authority, not even knowing how to read—only aggravates the existing demoralization of the rank and file of the *fonctionnaires*.[16]

According to the social criteria of to-day, there seems to be no longer any unusual honor attached to service to the French state. Its prestige value has been undermined by inexorable economic and psychological forces beyond its control. To-day, one hears, the *marchand de beurre* is "decorated" as often as the

[15] Approximately one-eighth of the students in the secondary schools hold state scholarships granted on a competitive basis.

[16] Various laws passed since the war reserve certain categories of minor and middle-grade posts to war veterans who are disabled or have served as volunteers.

public servant who had for many years given his talents to the good of the state. It is money, so runs the plaint, that determines the social value of everyone these days. The old moral considerations of "public welfare," once so potent in France, now have to enter into fierce competition with the material considerations of a post-war "industrialization" of values.

After this gloomy portrayal, the reader will doubtless wonder whether there are any signs of regeneration in the French public service. What of the prospects for the future? Is there a way out of the impasse? To these queries no definite answer can as yet be given. But at the risk of over-stating the possibilities, it may be said that France seems to be awakening to the necessity of putting its administrative house in order. To be sure, the public at large remains discouragingly indifferent to the problem. One notes, however, certain significant tendencies in the direction of belated justice to the civil servant, and, more important still, toward administrative reorganization; although nearly all of these developments face both economic and temperamental obstacles that it will take long to overcome.

First of all, as was pointed out above, the government is now giving serious attention to salary standardization and readjustment. The scale now being put into operation ranges from about 8,000 to 80,000 francs, without counting the various special bonuses and allowances to which public officials are entitled. Whereas only 1,358 million francs were expended for salaries in 1914, nearly 8,000 millions were voted in the budget for 1927; and the per capita remuneration for government work has risen from 2,200 to over 11,000 francs during this period.[17] Likewise, retirement pensions are in process of being brought up to something like their pre-war purchasing power, although it was then, of course, decidedly modest.

In these matters, however, no French government can go as far as it should because of the hard fact that over fifty per cent of its budget must still be devoted to debt charges (disregarding

[17] *Rapport général* of M. Henri Chéron on the 1928 budget as summarized in *La Tribune du Fonctionnaire*, Jan. 7, 1928.

the $4,000,000,000 owed to the United States), and the additional fact that seventeen per cent is taken for military purposes. Out of every 100 francs paid in by the taxpayer in 1926, 54 went for debt charges, 17 for military upkeep, and only 5 for public education. So long as the nations are not willing to organize the world-community for coöperative defense, France feels, rightly or wrongly, that she cannot reduce her armaments with any greater rapidity than at present. In this regard, it is not generally realized in America that France is the only Great Power (except Germany) now spending less money for military purposes than in 1914. Her army, navy, and air services cost in 1927 less than $275,000,000 a year; the United States and Great Britain each spent between $500,000,000 and $600,000,000, a sum which, if prospective naval programs are carried out, seems destined to increase, although the French military program contemplates a gradual contraction.

Whatever attitude, then, this country may ultimately come to on the French war debt question, existing budgetary realities would seem to preclude anything like a complete revaluation of salaries and pensions for the French civil service. With over twenty per cent of the national income already taken by the state in taxes (as against eleven per cent in the United States), no French cabinet seems willing to face the alternative of still higher tax rates. It is likely that the gradual decline in the high business salaries and pensions now setting in will react to the relative advantage of the government in its effort to recruit men for its administrative staffs. But, fiscal difficulties aside, it is doubtful whether the French shopkeeper and peasant (who hold the key to political action), so accustomed to believing "all ills come from the *fontionnaire*," and so saturated with the idea of social equality, could be brought to accept a scale of remuneration for government employees that would compare favorably with the English or the German.

This sociological quality of French life leads one to ask what, if anything, is being done toward spreading out government jobs less thinly. Keenly appreciative of the fiscal importance of retrenchment, M. Poincaré has dared abolish by decree 106 sub-

prefectures, 70 departmental secretaries-general, and certain other local dignitaries.[18] Minor economies in certain of the central departments, such as, for instance, suspending the publication of annual reports and yearbooks, are effecting a slight reduction of personnel, though sometimes at the expense of proper public reporting. But these reforms can be only fragmentary, not alone because of the vigorous opposition of powerful staff organizations and of war veterans' associations, but also because of an understandable, if unwise, local resentment at seeing small centers deprived of their "official" importance. Like American congressmen, French deputies think most easily in provincial terms. And there is another factor. The reduction in the number of government employees cannot become drastic until the dismissed *fonctionnaire* can be absorbed by the labor market outside. He must be retained either until death or until he reaches a reasonable retirement age. Hence, the shrinking of the public pay roll can, by and large, take place only as rapidly as the slow-moving hand of time permits.

After all, it is not so much a decrease in the size of the civil service as it is a more effective utilization of the existing personnel that is desirable. "Everywhere," recently wrote Mr. Sisley Huddleston, "there is misemployment. In the postoffices you will see long files of waiting patient members of the public before one *guichet* while the clerks behind six other *guichets* have apparently nothing to do except to fill up forms. To have a parcel weighed or a letter registered is an endless operation. On the state railways the repeated *contrôle* is amazing."[19] While this characterization of French bureaucratic practices, which are by no means confined to government offices, but are to be found in theatres and department stores as well, contains a certain element of exaggeration, it remains a substantially valid appraisal. But to bring about a better employment of personnel, two things are necessary: on the one hand, a fusion of certain overlapping services and an improved coördination of other distinct but closely related departments, and on the other, an

[18] Decree of Sept. 10, 1926.

[19] S. Huddleston, *France* (London, 1926), p. 587.

improved technique of what is known in America as "personnel management." Of administrative reörganization there has been much talk in recent years, as well as before the war, with as yet little actual accomplishment. M. Herriot's creation of a permanent secretariat for the Council of Ministers, although emasculated by M. Poincaré for reasons of doubtful economy, bids fair eventually to become a highly useful liaison agency in the central administration at Paris. Under the leadership of M. Louis Marin (at present minister of pensions), several interesting projects for fusing ministries so as to reduce the number from thirteen to eight or nine have been worked out.[20] In most of these proposals the ministries of war and the marine would become a single ministry of defense; the existing ministries of the interior and of justice, together with certain services relating to public hygiene and assistance, might be coördinated into a single department of general administration, and the ministries of commerce, agriculture, and labor would be fused into a single department of national economy. It is generally agreed that the several services of both tax collection and educational administration need to be unified so as to reduce overhead expense and accelerate the execution of policy. More radical reformers, like M. Henri Chardon, propose the abolition of the prefect as a no longer useful *political* representative of the central government in the provinces; his duties, they argue—and rightly so, it seems to the disinterested observer—can better be performed by technical inspectors and supervisors sent out by those administrative departments that have to do with police, road building, public health, education, and economic regulation. Recent legislation, moreover, widens the competence of local legislative councils and gives permission to two or more communes to set up joint administrative *syndicats* (boards or commissions), or enter into *ententes*, for the *ad hoc* handling of

[20] Cf., especially, for careful discussions of the current aspects of administrative reform, H. Puget, "Un Programme de Réformes et d'Economies," *Revue des Sciences politiques*, April-June, 1924, and P. Flandin, "La Réforme administrative," *Revue de Paris*, June 1, 1927.

common problems.[21] This presages a sort of functional regionalism that may yet steer France safely between the Scylla of centralization and the Charybdis of territorial regionalism.

Still more suggestive is the campaign now being waged in France for what is called the "industrialization" of the public services—at any rate, of those which, like the postal, telegraph, and telephone administration and the ministry of public works, lend themselves to fiscal automony and the stimulus of economic profit. The industrializationists received their original inspiration from a famous industrial engineer, M. Henri Fayol, who in 1921 published a widely read proposal entitled *L'Incapacité de l'Etat: les P.T.T.* Since then, the Federation of Postal Employees has interested itself in Fayol's ideas, and it finally induced Parliament in 1923 to grant budgetary autonomy to the P.T.T. The able leaders of the Postal Federation have developed a comprehensive project for applying to the French mail and communication services "business principles" whereby any excess of receipts over disbursements would be directly devoted to ways and means of improving the service, which now ranks as low as seventeenth in technical efficiency among the postal services of the world. In proposals like this, the organization of an "economic" public service would be modeled after that of *la grande industrie*, with a board of directors including representatives of the technical and operating personnel, but with ultimate control left in the hands of Parliament. Although employee groups do not go so far as to demand a share in the "profits," they naturally insist upon a salary scale that will enable them to live comfortably in their respective *milieus*. Judging from M. Poincaré's attempt last summer (defeated, incidentally, by the pressure of socialists and *fonctionnaires*) to turn the government match monoply over to a private Swedish-American concern, in return for a definite guaranteed rate of return, the present government seems to favor "concessions" to private companies rather than the so-called industrialization from within; and in any case there are many public services,

[21] Decree of Nov. 5, 1926.

like education, that defy the latter kind of surgical treatment. This matter is a bone of contention between the conservative and radical points of view which may come to the front in the parliamentary elections of 1928.

Of the application of personnel management to the public service, certain promising, though as yet isolated, beginings may be noted.[22] A little of this decidedly American influence has at least penetrated the periphery of some of the government departments. Experiments for the better selection of telephone operators by the use of psycho-technical tests have been conducted; in the navy, similar experiments were recently initiated at Toulon with a view to securing from radio operators a higher level of individual efficiency. To stimulate zeal and initiative on the part of its employees, the ministry of finance is trying the use of "bonuses" in the division responsible for the collection of direct taxes. Similar experiments are going on in the statistical division of the ministry of labor, the mail service, and a number of other departments. This sort of stimulant was abandoned after a year's trial in the postoffice, and is generally criticized by most staff associations on the ground of favoritism in its allocation, as well as by "authoritarian" politicians of the old school who believe strictly in budgetary rigidity. Furthermore, the quality of many kinds of public work can hardly be quantitatively measured. Nevertheless, the impetus behind experimentation of any sort is an encouraging sign.

Of like promise are the staff schools for customs inspectors, postal clerks, and clerical employees (in the ministry of finance) that were recently set up with a view to offsetting the innate tendency of the bureaucrat to stagnate. In this regard, credit should be given to the professional organizations of public employees, for they have constantly agitated for continuation training for their members after entry into the service; and some of the staff groups have actually started schools of their

[22] The author has in preparation a series of monographs analyzing the technical aspects (recruitment, promotion, discipline, salary standardization, etc.) of French personnel policy. *Man. Ed.*

own against tremendous economic odds. Any one who has studied the remarkable achievements of big industrial plants in this direction knows full well how much room for this kind of exploration there is in the public service, not merely of France, but of every country.

In the end, the chief immediate hope that France's "bureaucratic armament" will become modernized probably lies rather with the civil servants themselves than with the politicians. The former have developed a professional *esprit de corps* that is doing more than any other element in French life to instill new methods in government work—things like the use of less antiquated filing devices, simplication in the handling of correspondence, the introduction of cost accounting and of calculating machines, and so on. Until there comes a thoroughgoing constitutional reform which will permit a minister to stay in office long enough to carry through a well-conceived program of administrative reorganization, the deeply-rooted vices of bureaucracy can only be mitigated, but not completely eradicated. Such a reform, unhappily, is too closely related to "high politics" to take place very soon. Meanwhile, unless unrelieved grievances drive the organized civil servants to communism, (most of them are now closely affiliated with the moderate *Confédération générale du Travail*, but there is a growing communist minority), the intelligent, courageous, sometimes impatient, officers of their staff associations can and will do much to free French administration from the inertia of the past. It is these hard-working, poorly-paid men and women who will sooner or later force Parliament to stop sending spies into government offices in the hope of "getting something on the Administration"; it is they who are now leading the government to adopt a personnel code that will eventually protect civil servants from arbitary and unjust treatment, and will handle the intricate problems of promotion and discipline in a way that should incite creativeness and replace the prevalent obliviousness to the

[23] The growing use of advisory functionalism in French administration is most suggestive. It will be treated in a second article in a later issue of the *Review*.

public's convenience with a genuine desire to serve it. It is they, finally, who are bringing about the close and increasingly fruitful collaboration between technicians inside and representatives of economic and social groups outside, such as has culminated in the National Economic Council, the Superior Council of Education, and the Superior Council of the P.T.T.[23] These are developments in vocational representation that are helping to "break the backs of administrative policies over the heads of the public," and from such experiments certain valuable lessons may be drawn for the handling of American national problems. For our own democracy has yet to learn how to bring lobbying out into the open and to dispel its lingering distrust of the expert in public affairs.

So far as France is concerned, one need not expect the changes herein sketched to produce an American brand of efficiency. That would be to leave out of account both the hard economic limitations that France has inherited from the war and the peculiar temperament of her people. In the Chamber of Deputies the typical question put to ministers has little to do with administrative efficiency, but is concerned rather with personal or class or political interests. As M. Robert de Jouvenel has so brilliantly put it, France is still a *république des camarades* in which the desire to please or flatter a friend counts for more in the selection and advancement of important officials than does the rigorous application of "service ratings" on a merit basis. One remembers how dramatically the government of M. Herriot fell in 1925 because it filled a vacancy in the faculty of law in Paris by appointing one of the personal *attachés* of a member of the cabinet instead of the properly presented nominee of the Faculty itself. French temperament finds its chief means of expression in the clashing of ideas and opinions. The Frenchman, M. André Siegfried once remarked to the writer, feels cramped if he remains longer than six months in Switzerland, where "material things run too smoothly." He is interested mainly in the cultivation of his individual faculties and in the warring of rival political factions and opinions. That is why he has so patiently tolerated his slow-moving, some-

what antiquated, public administration. This administration may, however, be on the road toward a renovation upon twentieth century principles. In the opinion of the writer, America can contribute most helpfully in the fitful, painful process that this entails, by genuinely coöperating in the world movement for international security, and, not least, by rebuilding her debt policy so that it will no longer bring upon us, justifiably or not, the opprobrious epithet "Uncle Shylock."

FUNCTIONAL REPRESENTATION IN THE INTERNATIONAL LABOR ORGANIZATION

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I

A *bloc* system has superimposed itself upon national legislatures. Although their members are elected on a definite territorial basis, they associate themselves together in response to interests in their constituencies which have little relation to their electoral districts. Thus, in the United States, a foreign word has come into use to designate the organized agricultural interests which constitute the farm *bloc*.

More or less definite aggregations of this kind have been formed throughout parliamentary history. Some of these have been the result of particular manufacturing or commercial interests; other groupings have followed religious or social-class lines of cleavage; nevertheless, the basis of representation, in the popularly elected chambers, has remained territorial. Since 1919, however, an international assembly has been built up on a new political pattern. This is the Conference of the International Labor Organization, which convened for its tenth session at Geneva, in May, 1927, and in the following October completed the eighth year of its history. Notwithstanding the fact that structurally this body has a national basis, in that the delegates are sent by different member states, the conferences derive their character and mode of operation, not so much from the member states as from the three component groups in which national differences are more or less subordinate. These groups represent, respectively, the governments, the employers, and the workers of the several countries.

The International Labor Organization was called into being by Part XIII of the Versailles treaty. Like the League of Nations, with which it is associated, it owes its existence to the attempt to make peace more secure by providing a way for the adjustment of economic interests which, left to oppose one

another, might constitute causes of war. These interests, although not confined to one nation, seek protection and support from the governments of the several states. Political middlemen are consequently set to work in a roundabout way to make treaties, to build tariff walls, and to establish credits for the benefit of the nationals associated together in some economic interest. These political intermediaries are often found to be slower than the interests will permit, and often they are forced to introduce factors foreign to the matter in hand, thereby imperiling the delicate balance they seek to establish. Partly for this reason, the big business interests in different countries seek direct conferences and combinations which are international in character. Instances in point are the association of groups of American and foreign companies in large-scale oil operations in Iraq organized as the Turkish Petroleum Company in 1925, and the establishment of the international steel pact in 1926 by interests in Germany, France, Belgium, and Luxemburg.

At the same time that international manufacturing and credit associations were being formed, labor groups, apprehensive of what was going on, also essayed international association. None of these has achieved a high degree of solidarity or permanency as yet, chiefly because no international business combination and no federation of labor has been able to comprehend in its practice all the complexities of a world made up of national units of different races, at different stages of economic development, all under a necessity, greater than ever before, of exchanging with one another raw materials and manufactured products.

The structure of the International Labor Organization offers unusual advantages for the achievement of international cooperation, advantages which may be seized for ends even more far-reaching than the Organization's immediate program. This program is the elimination of the competition which results from the fact that national and economic frontiers do not coincide. Since different legal requirements govern the conditions of work in countries which trade with one another, it has long been contended by the employers in those countries where the legal restrictions are many that they pay higher labor

costs than their competitors in countries where the corresponding restrictions are few and unimportant. The workers object that the difference in working conditions makes competitors of workers in such a way as further to depress the standard of living of both competing groups. Hence the attempt to make uniform standards of employment by this new process of international legislation, in order that the standards of living of the workers may be protected and manufacturing costs may be evened up in so far as inequalities are due to differences in the legal requirements regarding employment.

The object of the annual conferences of the International Labor Organization is the adoption of draft conventions which the delegates take back to the member countries to be ratified by the national law-making bodies and enacted into national law. To April, 1927, a total of 217 such ratifications had been registered with the secretary-general of the League of Nations. At the same time, thirty-eight other conventions had been authorized by the competent authorities of the countries, but not yet registered.[1] Still others had been recommended but not approved, or had been given delayed or conditional application. Some of the more important of these conventions deal with the application of the principle of the eight-hour day and the 48-hour week, the protection of women and children, unemployment insurance for shipwrecked sailors, the rights of association of agricultural workers, and equality of treatment of national and foreign workers under the workmen's compensation laws of the various countries. The countries now members include all important ones in the world except Turkey, Egypt, Mexico, Russia, and the United States.

II

The subject with which the present study is concerned is the method by which the separate functional groups in the conference work, as this international law-making process is carried on, and the results they have achieved.

[1] *Monthly Summary of the International Labor Organization*, April, 1927, No. 4, p. 21.

"Never since the days of Pentecost has there been an assembly like this, and until tongues of fire descend on us and enable each of us to speak in a language which will be understood by his fellows, it will always be open for someone to say that he did not understand what was being done." These were the words of Mr. Cuthbert Laws, the employers' delegate from Great Britain in the session on maritime affairs in June, 1926. They were spoken, however, in a speech, the purport of which was that, in spite of the differences of language, race, position, and nationality, essential understanding is not impossible. Obviously the difficulties are many. But by means of the translation of all speeches into one or the other of the two official languages, French and English, understanding is secured; and the less obvious barriers of social tradition are somehow overcome.

The government group, made up of two representatives from each country, is twice as large as either of the others,[2] represented as the latter are in each country's delegation by only one employer and one worker, though these may each be accompanied by expert advisers who may speak and, on occasion, even vote as deputy for the delegate. The justification for the government majority is that since it becomes the obligation of the governments, according to the scheme, to incorporate in their national legislation the conventions recommended in the draft conventions they require a controlling hand. The employers' and

[2] Up to the present time, indeed, the government group has had an even larger proportion than it is assigned in the constitution, because some member states have sent incomplete delegations, consisting of government representatives only in a number of instances. These have usually been the smaller and more distant countries, where the expense of a full delegation has been a deterring consideration and where some resident diplomatic representative of the country has been named to serve. On the other hand, a number of countries now maintain a permanent secretariat at Geneva to attend to their interests in the International Labor Organization. The numbers actually present in the three groups in the conferences of 1925 and 1926 were as follows:

Session	No. of countries	Government	Employers	Workers
7	46	80	32	32
8	39	71	29	31
9	38	70	29	30

workers' representatives are appointed for each conference by their governments in agreement with "the most representative" employers' and workers' organizations, respectively, in their countries. The three groups each elect a chairman, vice-chairman, and secretary, and establish an office during the session of the conference. They caucus on all important issues, and nominate their representatives on the special committees which handle the work of the conferences and prepare it for the action of the whole. In the committees, unlike the conference as a whole, the three groups are equally represented, on the basis of 1-1-1, instead of 2-1-1, so that in the committee procedure, the governments have no guarantee that a combination of employers and workers will not constitute a successful opposition. On the Governing Body, the executive of the Organization, the government representation is again twice that of the other groups, the government members filling just half of the twenty-four places.

III

The most definite test of the solidarity of the functional groups is the degree of coherence their members show in the record votes. These votes may be examined to ascertain whether they show a distinct ranging of separate government, employers', and workers' interests behind substantial majorities of each, or whether the votes scatter. The significance of scattering might be either that there are no group interests which divide on the issues with which the conferences have dealt, or that their autonomy has been interfered with by extraneous political influences.

A measure of group solidarity is, in fact, exhibited in all three cases, but with a marked difference in the degree in which it has been achieved by the three groups. For instance, the undivided votes of the seventh, eighth, and ninth conferences give evidence that the tendency of the workers to vote together was decidedly stronger than that of the other groups. They voted

[3] The data presented are those of "record" votes only and do not include the "show of hands" votes, even when the official records reveal the numerical distribution of these votes.

without a single break in their ranks on thirty-two of the thirty-six votes[3]; whereas the employers, who voted as a unit only nineteen times, were divided nearly as often (seventeen times), and the government delegates were nearly twice as often divided as they were of one mind, i.e., twenty-three to thirteen (see Table I).

TABLE I

DIVIDED AND UNDIVIDED VOTES IN THE 7TH, 8TH, AND 9TH CONFERENCES

Session	Record votes taken	Government		Employers		Workers	
		divided	undivided	divided	undivided	divided	undivided
Seventh	19	11	8	9	10	2	17
Eighth	4	3	1	2	2	1	3
Ninth	13	9	4	6	7	1	12
Total	36	23	13	17	19	4	32

Not only was the workers' vote split less often than the votes of the other groups, but the minorities, in the cases of divided votes, were always negligible ones. To illustrate by the voting in the ninth conference: there was only one instance of a divided workers' vote, and in this case the minority numbered three. The employers had six minorities, all small, on the votes of the same conference. The largest of these, six votes, was the only case in which the minority was as much as a third of that part of the group which voted on the other side of the question. The government voting, on the other hand, gave evidence of opinion which was frequently divided. There were nine divided votes, in four of which the minorities were more than a quarter of the opposing majorities. In one case, a minority of twenty votes was less than the majority by a single vote.

It may be assumed that the government stakes in the issues are different from those of the other groups. Naturally, the position which a government representative must take is almost of necessity determined first of all by political expediency, either that of the domestic situation or that of foreign relations. This

may require a swing in one direction at one time and in the opposite one at another. Furthermore, there are few philosophic considerations which guide all governments *qua* governments. This is certainly true of an assemblage in which sit together the representatives of fascist Italy and republican Germany, Australia, a member of a great "commonwealth of nations," and Switzerland, without such associations. On the other hand, all recognize a comity which requires each to abstain from any act that might be interpreted as criticism of the internal arrangements of another state—an obligation not binding, of course, on the employers' and workers' groups. Such a consideration was evidently sufficiently strong in 1924 to prevent the government representatives who were members of the British Labor party from recording themselves as rejecting the credentials of the workers' representative from Italy when the fascist government appointed Mr. Rossoni, though as trade unionists and as members of their political party they were doubtless as opposed to his sitting as were any one of the workers' representatives who voted against him.

In signing the treaty of peace the governments became responsible for the existence of the International Labor Organization, and good faith requires them to make its operation possible. If few conventions were adopted by the conferences or none drafted which the states would ratify, the very existence of the Organization would be threatened. It is especially incumbent, then, upon the government representatives to see that its operation is not blocked and to use their influence to continue it as a going concern. It would be difficult to assign a particular vote to this general obligation. But undoubtedly it is felt by the individual government delegates, as their speeches clearly show. Other things being equal, they will vote so that the body of international legislation will accumulate. Possibly this general obligation constitutes the reason why (contrary to the impression of so many workers), the government delegates have more often voted so that their majority coincided with that of the workers than with that of the employers. In the combined record votes of the first nine conferences, the govern-

ment majority was on the same side with that of the workers forty-seven times (exclusive of the votes when the majorities of the three groups coincided) and only sixteen times with that of the employers (see Table II). It is maintained that this record reflects the rôle of the governments in making their necessary and appropriate contribution for carrying out the original purpose of the Organization, rather than the award of an arbitrator between parties in dispute.

TABLE II

LOCATION OF THE GOVERNMENT MAJORITY ON ALL RECORD VOTES

Session	Number of votes taken				
	Total	Government with Workers	Government with Employers	All Three Together	Government against Others
First	25	6	6	13	–
Second	16	6	–	9	1
Third	23	6	2	15	–
Fourth	3	1	–	2	–
Fifth	5	–	3	1	1
Sixth	7	4	2	1	–
Seventh	19	12	1	6	–
Eighth	4	3	1	–	–
Ninth	13	9	1	2	1
Total	115	47	16	49	3

When the entire rôle of the governments is studied, the comparative lack of coherence of this group remains conspicuous. Of the three, it has had throughout the entire history of the conferences the greatest difficulty in working smoothly. It has been pointed out that "notwithstanding its numerical superiority over the two others, it sometimes finds difficulty in drawing up the list of members of the group for the committees."[4]

The points of view from which the employers from various countries, on the other hand, have approached the problems

[4] "The Eighth Session of the International Labor Conference," *International Labor Review*, Vol. XIV, No. 2 (August, 1926), p. 188.

of international standards for working conditions have been sufficiently alike to permit a substantial degree of accord. As employers, they have looked at proposed regulations in the light of what they add to manufacturing costs or the possible effect upon markets. For instance, in the discussion of the convention for the elimination of night-work in bakeries, it was objected that the impossibility of delivering fresh loaves of bread in the morning would mean a considerable decrease in the amount sold. In the words of the director: " . . . . It is their endeavor to lessen the burdens on industry, and labor legislation sometimes seems to them to increase these burdens. Frequently they have considered that it was their duty to act as a check, if not as actually opposed to the development of international labor legislation."[5] Usually where the proposed convention suggested a change in the *status quo*, the employers in the countries affected have massed in solid formation against it. They have been willing to make a general regulation only when the prevailing practice was already fairly general. This was true of the discussions of the special session on maritime affairs held in the summer of 1926. The employers argued that the Labor Office, in preparing drafts for the conference, should aim merely to crystallize or codify the regulations which were already a part of prevailing practice, rather than attempt the laying down of new rules.

Where standards of work and standards of living present wide differences, the interests of employers in different countries may be quite differently affected by the adoption of a convention. This was brought out in a discussion in the seventh conference in 1925 by Sir Thomas Smith, employers' representative from India, in a reference to Japan's failure to ratify the Washington Hours Convention. He contended that Japanese manufacturers had a material advantage over those in upper India, where hours had been voluntarily reduced.

" . . . . Japanese manufactures," he said, "can be, and are being, dumped in Bombay at prices with which the Bombay

[5] International Labor Conference, Eighth Session, *Report of the Director* (1926), p. 192.

manufacturers cannot compete. It comes to this: Japan takes her cotton from India to Japan, manufactures it, sends it back, and is able to undersell Bombay, which has cotton at its doors. The cotton industry has been and is still going through a period of grave stress, and it cannot regard with equanimity the unfair advantage taken by Japan. It therefore calls upon Japan to ratify the Hours Convention, and it asks this conference to ensure by its moral support that Japan shall fulfill the undertaking which she entered into at Washington. . . . . Unless Japan ratifies, I can foresee retaliation by India in other directions which I need not speak of here. But I equally foresee a more deplorable thing, and that is that India will have nothing more to do with ratification. . . . ."[6]

The point of this contention is not lost, even if the Japanese reply made to Sir Thomas Smith's speech held more of the truth. This was to the effect that it was "unfounded to assert that Japan is taking advantage of inferior working conditions in commercial competition with India," since India deals with coarse yarns and Japan with fine, but that both Japan and India suffered from the development of cotton manufacture in China. Therefore both countries would gain by the adoption of the hours convention under discussion. This instance is not the only one in which employers in countries of unequal industrial development have been unable to see common advantage in uniform standards of employment where some change in existing practice was necessary to secure them, but there has seldom been lacking among the employers some voice to proclaim that the alternative of competition on the basis of different standards is ultimately ruinous.

The factors that have threatened the autonomy of the workers' group, with a single exception, have come from considerations unrelated to the subject-matter of the conventions and recommendations. One of these issues has been the repeated refusal of the workers' group to acknowledge the fascist appointee, Edmondo Rossoni, president of the Confederation of

[6] International Labor Conference, Seventh Session, Vol. I, p. 108.

Fascist Trades Union Corporations, as a representative of the Italian workers. Ever since 1923 they have contested Rossoni's credentials and have voted to a man against seating him. Each time, however, a combination of the government and employers' representatives has admitted him as a member of the conference. Defeated at this point, the workers have made his presence at the conference meaningless by refusing to name him for any one of the committees through the work of which the conference is done, thereby preserving the autonomy of their group from what they have regarded as political interference from Rome.

The counter-move of the employers was an effort to change the standing orders of the conference. These provided that the members of the various committees should be determined from lists submitted by the three groups, and that no change should be made in the composition of committees except by the conference itself in the course of a full sitting. At the seventh session, the employers supported an amendment which proposed that the lists submitted by the three groups should always be two less than there were places to allot on the particular committee, and that the selections committee should choose the two remaining members from the group concerned. This would have been a real inroad upon the autonomy of the group, and would have made possible a place for Rossoni against the wish of the workers' group. It remained for Sir Louis Kershaw to make a compromise suggestion which was approved by the special committee on standing orders and by the Governing Body and was adopted. It was to the effect that any delegate might take part in the work of a committee, attend its meetings, and have all the rights of a member except the right to vote.

The religious affiliations which have divided trade unions at home in the member countries have threatened to split the workers' group at Geneva. The first instance of this was in 1921, when three federations of trade unions with Roman Catholic membership asked to be considered together as the "most representative" body of workers in the Netherlands, and the one with which the government should consult in appointing the

workers' representative in the conference, instead of the Netherlands Federation of Trades Unions, the body with the largest single membership, and the one with which the government had advised up to that time. Although the combination of the Catholic federations was made for the purpose of securing substantial numbers and of urging their "most representative" character on this basis, there was evidently here a plea for some provision for minority representation. The matter was adjusted by an agreement to appoint the workers' representative at successive conferences alternatively from the Catholic and the non-Catholic groups, though this was not done without protest in the credentials commission. In 1924 a similar problem was presented by divergent workers' groups in Czechoslovakia.

The workers' group is not the only one in which importance is attached "to the representation of groups or schools of thought," though criticism on this account has perhaps been sharpest in the workers' group, where, it is alleged, it has amounted to the "dictatorship of the representatives of certain trade-union views and their habit of excluding those of a hostile or at least divergent school of thought."[7] When the subjects of proposed conventions have related to problems of workers employed in particular trades or industries, as in the case of seamen, the question of their adequate representation through the customary machinery of appointment has come up. In the ninth session it was proposed that the Permanent Court of International Justice be asked to decide whether, when special conferences were called to consider the standards of employment of workers in a particular industry, the requirement made in Section 389 of the Versailles treaty for consultation with the "most representative" organization of workers and employers in a country might not be taken to apply to the organization of work-people in the industry concerned. In this way, functional representation might be more complete than through the central bodies.

[7] "The Eighth Session of the International Labor Conference," *International Labor Review*, vol. 14, no. 2 (August, 1926), p. 187.

The conference of 1927 put into effect a new procedure for voting, designed to give more opportunity for drafting conventions which the member countries will be able to adopt promptly. It is now incorporated as Article 6 of the standing orders of the conference. Briefly, this is as follows. The Governing Body first places a question on the agenda of a forthcoming conference. The Office prepares a documentary report on the subject of the question, followed by a draft of a questionnaire on it. The conference discusses the question with a view to determining whether it is a suitable matter for a convention or recommendation. A two-thirds vote is necessary to place the question on the agenda for the next meeting. After the conference has decided on the form of the questionnaire, the Office revises it and sends it out to the governments within a month's time. The replies received from the governments furnish the basis of the report prepared four months before the next session of the conference. Thereupon, the conference deals with the question in the usual way. This plan will require some testing before it will be possible to say whether the provision for taking into account the situations and inclinations of the different governments will be the means of accelerating the discouragingly slow process by which the important industrial countries of the world have adopted the conventions and made them part of their national codes.

The history of the conferences abounds in instances in which members of the different groups have seized the opportunity of an international stage to focus attention upon affairs at home for the sake of forcing the hand of the government or for other effects that the publicity might have upon an issue. India has furnished a number of these. "May I ask the seamen of Europe," said Mr. Doud, workers' representative from India at the ninth session, "to keep their eyes upon Indian seamen and see that they are well paid and treated more like human beings and that their hours of work are regulated?" "All that we are attempting to do," said Mr. Lala Lajpat Rai, workers' representative from India at the eighth session, "is to throw the light of publicity upon conditions of life existing in those

countries where self-government does not prevail or where conditions of labor are not such as we would like them to be." At the eighth session, the seating of Sir Arthur Froom, employers' delegate from India, was contested on the ground that he was not an Indian. This protest came from associations of merchants and buyers whose members were Indians and from the Indian chambers of commerce of Calcutta and Rangoon. Together with the protest of insufficient representation from the Federation of German Trade Unions in Czechoslovakia, it brought before the conference considerations which had to do with the different national and racial elements in the countries, rather than with conflicts of economic interests.

IV

Any attempt to gauge the success of this experiment in functional representation must take into account the extraordinary difficulties under which it is being carried out. These include differences in language, race, and stages of industrial development, as well as the opposition of economic-class interests. In spite of these, a comparison of its progress with the long and slow process by which important legislation is often worked out in fairly homogeneous countries like England and the United States brings one to the conclusion that the small number of adoptions of the conventions of the conference is not yet a matter for discouragement. When presiding over the seventh conference, President Benes said: "The conference has incontestably become a school for the propagation of a wise, moderate, and at the same time profound, international spirit. .... It is the spirit of international solidarity, which in spite of everything, is necessarily spread in this hall, and from this hall to the outside world." The correctness of this observation is borne out by the fact that in forty-nine of the one hundred and fifteen record votes of the first nine conferences the majorities of all three groups were ranged on the same side of the question (see Table II).

Further experience may definitely show that more substantial and more nearly permanent agreement can be reached by the

methods of the conference, or by some modification of them, than by any other means of representation. Two advantages have already become apparent: (1) time is saved, because each functional group, and each member of it, is frankly the responsible spokesman of a particular constituency whose interests are at stake; (2) intelligent toleration is produced by the continued contact of persons from different countries, races, and economic situations. Through the direct contact of the conference method, problems are more easily put into the human terms which are necessary for their comprehension and final solution.

PUBLIC ADMINISTRATION, 1927

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The following pages represent an experiment. They are devoted to an initial attempt to summarize the most important events in the field of public administration in the United States for a calendar year. A series of such summaries, if they could be made reasonably complete, would presumably be of substantial value, at least to the academic world; the present survey, incomplete and unsatisfactory from many points of view, may at least serve as a point of departure for later enlargements and improvements. I am indebted to many correspondents for assistance in gathering the materials on which it is based; and I acknowledge my gratitude to them, without implicating them in the result.

Administrative Reorganization. Although the movement for reorganization of public administration has slowed down, significant steps were taken in 1927. Two large-scale state reorganizations were effected, in California and Virginia, the latter following a careful survey by the National Institute of Public Administration.[1]

In California the bulk of the state work is consolidated in nine departments, the directors of which comprise the governor's council.[2] This is an interesting legal reconstruction of the governor's council inherited from the eighteenth century in Massachusetts, Maine, and New Hampshire. The department of finance (Chap. 251) is given general powers of supervision over all matters concerning financial and business policies of the state, including specifically authority to audit, to visit and inspect institutions, and with the governor to authorize expenditures in excess of appropriations. The state board of control replaces the state board of examiners, and now consists of the director of finance, the chief of the division of service and supply, and the state comptroller (Chap. 251). It approves all state contracts and receives notice of local bond issues. The department is of significance both as an agency of general control and as an agency to observe and report on the mounting indebtedness of local governments. The reorganization was not effected in a single statute (cf. Illinois,

[1] *Organization and Management of the State Government of Virginia* (Richmond, 1927); *County Government in Virginia* (Richmond, 1928).

[2] Session Laws of California, 1927, Ch. 105.

Pennsylvania, Massachusetts, etc.) but in a series of independent enactments, i.e., Chapters 49, 105, 128, 251, 252, 276, 440, 515, 580, 595. It is of interest to observe that the key appointments are made by the governor without the consent of the senate, and that the incumbents serve at the governor's pleasure.

A special session of the legislature was called by Governor Byrd to reorganize the Virginia state government.[3] The new plan provides for twelve departments, and in the governor's office for four divisions dealing respectively with the budget, records, military affairs, and grounds and buildings. Constitutional amendments are pending to complete the task of reorganization.

Several changes were introduced in the Pennsylvania administrative code.[4] The department of state and finance has been deflated to the traditional office of secretary of state, while budget duties have been transferred to the office of governor. The budget secretary, however, lacks power to prescribe uniform accounting procedure. A department of revenue will come into existence in 1928. The department of internal affairs, a constitutional office which Governor Pinchot desired to abolish, has been rehabilitated and enlarged.

Connecticut replaced its former state board of finance with a board of finance and control consisting of the governor, secretary of state, treasurer, comptroller, attorney general, tax commissioner, commissioner of finance and control (all ex officio), and three electors appointed by the governor and senate.[5] Opinion as to the proper form of the general agency of control seems as yet far from settled.

The reorganization of city government has proceeded along well established lines. The city manager plan was adopted or inaugurated in Oklahoma City, Indianapolis, Hamilton (Ohio), Rochester, and other smaller cities, totalling a net gain of twenty-six. Buffalo abandoned the commission plan in favor of the mayor-council form, and Auburn, New York, abandoned the manager plan for the mayor-council type. Campaigns for the adoption of the city manager plan are in progress in Seattle, Oakland, Toledo, Terre Haute, Kansas City (Kansas), Tulsa, Dallas, and other cities.

Highway departments were reorganized in Alabama,[6] Kansas,[7]

[3] Session Laws of Virginia, 1927, Ch. 33.
[4] Session Laws of Pennsylvania, 1927, p. 207.
[5] Session Laws of Connecticut, 1927, Ch. 297.
[6] Session Laws of Alabama, 1927, p. 348.
[7] Session Laws of Kansas, 1927, Ch. 255.

Iowa,[8] and Ohio.[9] A pension commission was created in California;[10] important pension reports were presented by Comptroller Charles W. Berry of New York, and by the pension commission of the city of Chicago.[11] Commissions to study taxation were created in Minnesota[12] and New Hampshire.[13] A bill providing for general reorganization of the Missouri state government, drafted by the Missouri Association for Economy in Public Expenditures, was defeated in the 1927 session, but several labor agencies were consolidated in a department of labor and industrial inspection.

No progress was made in the reorganization of the federal administration, which remains the most conspicuous illustration of bad organization in the United States. In respect to the national government, the most important occurrence from the standpoint of administration was the creation by the House of Representatives of a single committee on expenditures to take the place of the eleven committees on expenditure of the several departments which had never functioned in the past. The new committee will correspond to the committee on accounts of the British House of Commons, which performs such an important function in respect to receiving the report of the auditor and comptroller-general and on the basis of that report reviewing the conduct of administrative affairs generally. The new committee of the House of Representatives will probably be the one which will have referred to it, and will consider, proposals for changes in the organization of the government and other subjects having to do with putting the government on a more efficient basis.

When Congress shall have acted to introduce a more logical and intelligible organization of the federal bureaus, administration generally will have passed through the present phase of reconstruction. Presumably it will then appear that its achievements, significant though they are, remain only a prelude to later phases resting on assumptions more deeply laid than those which have served during the last decade.

Personnel Administration. Although Congress and the legislatures of most states were in session in 1927, there was little personnel legis-

[8] Session Laws of Iowa, 1927, Ch. 102.
[9] Session Laws of Ohio, 1927, p. 430.
[10] Session Laws of California, 1927, Ch. 431.
[11] Cf. Bulletin No. 70 of the Citizens' Association of Chicago.
[12] Session Laws of Minnesota, 1927, Ch. 382.
[13] Session Laws of New Hampshire, 1927, Ch. 201.

lation of consequence. Attempts were made in Texas, Illinois, and elsewhere to establish or extend the merit system, but with few exceptions the proposed legislation was defeated. The merit system was established by law in Alameda county, California, of which Oakland is the county seat. In the last decade one state (Maryland) has adopted the merit system, and one state (Connecticut) has eliminated it. The administration of the merit law took a decided turn for the worse in Chicago with the inauguration of Mayor Thompson in April, 1927.

Progress in developing the technique of testing continued during the year. The Bureau of Public Personnel Administration has developed a number of tests for fire, police, clerical, scientific, and skilled labor positions. The Bureau has also developed a simple and easily given test of honesty which shows that about half of those who seek positions of trust in the public service are willing to alter written statements to their advantage under conditions which seem to protect against discovery. The federal law reorganizing the prohibition unit required the selection of enforcement officers by open competitive tests. The director of research of the Civil Service Commission of the United States gave most of his time to developing the necessary written and oral tests. Standardized non-dictated spelling tests were also devised, but the final trials of the general adaptability tests were not completed. Further light was thrown on the intelligence of policemen by a study of the Palo Alto force of fifteen men.[14]

At its meeting in Buffalo in September, 1927, the Assembly of Civil Service Commissions for the first time broke up into small sections to study and report on personnel problems. The various sections made reports concerning classification, compensation, short answer tests, oral interviews, examining and certifying common laborers, and suspensions and removals; and after discussion and some modification these reports were adopted by the full Assembly. They may properly be considered the most authoritative statements regarding these matters that have yet been made by the professional group responsible for public personnel administration.

During the year extensive classification and compensation studies were made or brought to completion in Massachusetts, Wisconsin, Virginia, Cincinnati, Cleveland, and some other places. To a con-

[14] Maud A. Merrill, "The Intelligence of Policemen," *Journal of Personnel Research*, vol. 5, p. 511.

siderable extent, the recommendations included in the survey reports have been made a part of the current practice.

The dispersion of authority for conducting examinations and for directing the personnel work of the federal government was under fire during 1927. At the request of several civic agencies, the Bureau of Public Personnel Administration has drafted a proposed federal act providing for the centralization in one agency of the personnel functions now exercised by more than a score of existing central agencies or handled directly through congressional action.

The Cincinnati Bureau of Municipal Research developed a promising efficiency rating form during 1927 which has been adopted by City Manager Sherrill. In general, however, one fails to discover outstanding progress in public personnel management. Perhaps the most notable indication of fine work in this field is to be read in City Manager John H. Edy's letter to prospective employees, a document of permanent value not merely to Berkeley but to public officials everywhere.

Police Administration and the Struggle Against Crime. Significant steps were taken in the field of police and crime. The elaborate study of crime in Missouri was completed and published.[15] The Illinois Association for Criminal Justice was organized and undertook a systematic analysis of the problem of the administration of justice in Illinois and Chicago. Its report will be published in May, 1928. In various aspects of its investigation this organization is coöperating with the Institute of Criminal Law and Criminology, the Institute for Juvenile Research, and the University of Chicago. In New York a broad study of crime and of the municipal and rural police forces of the state was completed. The National Institute of Public Administration initiated a nation-wide study of rural police and published a volume, *City Police Administration in New York State*, by Bruce Smith. The Minnesota Crime Commission Report was published in the January, 1927, issue of the *Minnesota Law Review*. The National Crime Commission issued in 1926 Dr. Raymond Moley's *State Crime Commissions*, and in 1927 L. N. Robinson's *Criminal Statistics and the Identification of Criminals*.

The Advisory Committee on Crime appointed by the Social Science Research Council approved four studies in this field, including a

[15] Missouri Association for Criminal Justice, *The Missouri Crime Survey* (Macmillan, 1926).

bibliography of research material on crime and criminal justice, a study of the methods and results of the Cincinnati Court of Domestic Relations and Juvenile Court, the selection and editing of the papers of the late Thomas Mott Osborne, and a study of penal farms in the Orient. The International Association of Chiefs of Police instituted a significant study of police statistics, in coöperation with the National Institute of Public Administration and the Detroit Bureau of Governmental Research. An important study by Dr. F. M. Thrasher—*The Gang* (University of Chicago Press)—threw light on some of the conditions under which criminals are made. Finally, mention may be made of a substantial study of the Cincinnati police department completed by the local bureau of municipal research with the assistance of the New York Bureau of Municipal Research. The California crime commission was established[16] to study the causes, prevention, detection, and prosecution of crime. Indiana established a bureau of criminal identification,[17] and Minnesota a bureau of criminal apprehension.[18]

Elections. The most important event in this field during 1927 was the publication of a model registration system by the committee on election administration of the National Municipal League.[19] Bills providing for permanent registration were introduced in the legislatures of seven states, i.e., Pennsylvania, Ohio, Wisconsin, Iowa, Missouri, California, and Washington. These bills were patterned after the report of the committee, and in four states, Ohio, Wisconsin, Iowa, and Washington, passed the legislature. The Ohio and Washington bills, however, were killed by veto. There is a serious movement on foot in practically every northern state to secure permanent registration of the improved type, and undoubtedly it will result in a widespread success within the near future. The permanent registration proposed by the National Municipal League committee advocated an improved administrative technique in handling registration. Particularly notable was the recommendation of up-to-date records in the form of cards, loose-leaf, or visible records to take the place of the old bound volumes. Other features include centralized administration, doing away with precinct registration, and thorough means of re-

[16] Session Laws of California, 1927, Ch. 407.

[17] Session Laws of Indiana, 1927, Ch. 216.

[18] Session Laws of Minnesota, 1927, Ch. 224.

[19] *National Municipal Review*, Jan., 1927, supplement.

vising the lists periodically, using death reports, moving reports, and cancellation for failure to vote.

Municipal research bureaus and other civic organizations in many cities, including Kansas City, St. Louis, Philadelphia, New York, Cleveland, and San Francisco, have made permanent registration a part of their campaign. The National League of Women Voters has also been particularly active, and the Wisconsin branch sponsored the successful Wisconsin bill. A sum of approximately $2,500 has been set aside by the research committee of the University of Wisconsin for a survey of election administration in Wisconsin. The inquiry will be made during the present year with Professor Joseph P. Harris in charge.

Finance. Steady progress in the refinement of financial methods was characteristic of the year 1928. Among the points which deserve recognition are the following:

1. A widespread acceptance of the idea that public improvements should be budgeted over a long term of years. The origin of such budgeting cannot be credited to 1927, but during that period there developed unusual interest in the subject. Early public improvement budgets were undertaken in Newark and St. Louis. In 1925, the Mayor's Committee on Finances in Detroit presented a program which was revised in 1927. In that year Municipal Administration Service published Mr. C. E. Rightor's pamphlet, *The Preparation of a Long-Term Financial Program*, and many communities have evidenced interest in such an extension of their budget procedure. The state of Michigan is developing a building program on its own initiative, and Wayne county (Detroit) is proposing a ten-year pay-as-you-go tax program to finance definite requirements.

2. A general agreement among students of government that the segregated budget developed in New York City following 1907, and adopted generally by all large cities and many smaller ones, as well as by many states and the United States, while it has produced beneficial results, is not the last word on the subject. In 1927 there was sincere and intelligent criticism of our budget methods. Recently there has been a tendency to advocate less detail in the appropriation ordinance and the adoption of an allotment system, either monthly or quarterly. At the same time, it has been suggested that, wherever possible, budget requests should be framed in units of work to be done, with estimated cost per unit, as compared with similar data for the preceding period. This suggestion opens large possibilities,

not only for economy in operation, but for comparative standards of measurement.

3. On this last point, the year was marked by an increased interest in the development of criteria by which the efficiency of government can be judged. The origins of this movement hark back to criteria formulated by Reed College, the University of North Carolina, the University of West Virginia, the University of Colorado, and others. In 1923, Dr. Charles A. Beard published his survey of Tokyo, which included certain more specific criteria for each city activity, followed by the detailed tests set up in Dr. Upson's report on the government of Cincinnati. In 1926-27 came the much more significant appraisal form for city health work by the American Public Health Association, along lines similar to, yet different from, those developed by the National Board of Fire Underwriters for fire departments. The twenty-five general tests of good government advanced by Professor W. B. Munro were used in studies of Dallas and Milwaukee. The National Municipal League, the City Managers' Association, and the Governmental Research Conference have appointed a joint committee on the subject, and from these beginnings the development of workable criteria is going on rapidly. This whole subject was systematically treated in Dr. Clarence E. Ridley's monograph, *Measuring Municipal Government.*

4. State supervision of local finance was the subject of legislation in Pennsylvania. All municipalities, except Philadelphia and Pittsburgh, must have the approval of the department of internal affairs before they may issue new bonds. The department may not question the expediency of the proposed issue, but merely its legality. It acquires, however, the authority to supervise sinking funds and to enforce compliance with the law relating to them. The local finance law of Ohio was thoroughly revised.[20] An important contribution to this subject is Wylie Kilpatrick's *State Administrative Review of Local Budget-Making*, published by Municipal Administrative Service.

New Agencies of Interest to Students of Public Administration. During the year steady progress was made in the foundation of new institutions and services. Among these may be noted the establishment of the Brookings Institution, which will act practically as a holding corporation for the Institute for Government Research and

[20] Session Laws of Ohio, 1927, p. 391.

the Institute of Economics. These two institutions will maintain their separate identity but will have a common board of trustees, which, among other things, will make appropriations from the general fund of the Brookings Institution to the affiliated institutes.

Municipal Administration Service was established at 261 Broadway, New York, under the direction of Mr. Russell A. Forbes, to serve as a clearing house for the bureaus of government research. During 1927 it published *Government Research*, by Dr. Charles A. Beard; *The Preparation and Revision of Local Building Codes*, by George H. Thompson; *State Administrative Review of Local Budget-Making*, by Wylie Kilpatrick; *Measuring Municipal Government*, by Clarence E. Ridley; *The Preparation of a Long-Term Financial Program*, by C. E. Rightor; and the *Codification of Ordinances*.

The following research organizations were established in 1927: (1) Buffalo Municipal Research Bureau; (2) Bureau of Research, Kansas City, Kansas; (3) Michigan Tax Economy League, Lansing; (4) Fall River Tax Payers' Association; (5) Oklahoma City Research Association; (6) Syracuse Committee on Municipal Research, Syracuse University; (7) Bureau of Municipal Research, University of Florida; and (8) Stamford Taxpayers' Association.

Dr. Luther Gulick estimates that seventy government research agencies are now spending annually not less than $1,300,000. A full list of these bureaus will be found in the 1928 edition of the *Municipal Index*.

Two round tables at the Washington meeting of the American Political Science Association were devoted to aspects of public administration: federal relations, a study of interstate and regional organization, conducted by Professor A. W. MacMahon; and problems of federal administration, conducted by Dr. W. F. Willoughby.[21]

Publications. Space will not permit anything like a systematic bibliography, but a survey of the year's events may properly close with notice of a few of the more general publications of the period. Among these, one of the most important is Dr. W. F. Willoughby's *Principles of Public Administration*, a systematic presentation of the general principles and practice of modern administration, with special reference to the federal government. Dr. Willoughby also published two important volumes, *The National Budget* and *The Legal Status and Functions of the General Accounting Office*. The service monograph series was extended.

[21] See pp. 428–433 below.

The Harvard Studies in Administrative Law was initiated with two significant volumes: E. W. Patterson, *The Insurance Commissioner in the United States*; and John Dickinson, *Administrative Justice and the Supremacy of Law in the United States.*

The National Industrial Conference Board continued its studies in state taxation and finance. In the field of public health a notable contribution was made by Professor Robert E. Leigh, *Federal Health Administration in the United States.* The city manager movement was analyzed by Professor L. D. White in *The City Manager. The Journal of Public Administration* continued to present articles of the same high level that has characterized it from the outset. An account of several international conventions during 1927 will be found in the February issue of this *Review* at page 181.

LEGISLATIVE NOTES AND REVIEWS

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Permanent Registration of Voters. There is a widespread movement for the adoption of permanent registration for voting. The plan does away with annual, biennial, or quadrennial registration, and establishes a fundamentally different system under which the voter is normally registered for life. It is known as permanent registration, because this one feature has attracted most attention; but in other details this new type of registration is essentially different from the older style. Registration is conducted at a central office throughout the year, instead of in the precincts on particular days. Outside offices may be used at times, but not in each precinct. Some form of individual records (loose-leaf, cards, or visible) takes the place of the cumbersome bound volume precinct registers. The work of keeping the registers cleaned of dead weight is not left to precinct officers, who are apt to be negligent and sometimes corrupt, but is performed by the clerical employees of the central office. The corrections are made upon the basis of routine information instead of relying upon challenges. Official death reports, cancellation because of failure to vote within a two-year period, transfers, and a house-to-house canvass of all registered voters, are used to purge the registration books. The voter who moves from one address to another within the city may transfer his registration to the new address upon request, and in some cities this is done for him without request, upon the basis of gas and electric removals, and other reliable information. Ordinarily the voter under permanent registration remains registered, and registered from one address only, as long as he continues to reside within the same city.

It is apparent that this method of registration is fundamentally different from the usual annual or biennial type. It operates upon the principle that it is possible and feasible to keep the registers purged of dead weight without going to the expense and trouble of conducting an entirely new registration every year or so. Under permanent registration there must be a continuous and thorough revision of the registers; otherwise they will become clogged with the names of persons who have moved away or died, and so will stimulate instead of prevent voting frauds. A number of states have grafted permanent registration upon a cumbersome, antiquated system of

annual registration, without making sound provision for purging, and have had serious trouble. This difficulty has been experienced notably in Louisville, where gross voting frauds occurred in 1925 because of the inadequacy of the new permanent registration law.[1] Indiana abolished a defective permanent registration law in 1927, and is now without any registration system whatever.[2] It will be interesting to note the results in the coming elections.

Boston may be credited with being the first large city to have a sound permanent registration system.[3] It was first put into operation in 1896. The principal feature of the Boston system is the police census of adults every year, which is thoroughly made. It is used to purge the registers and also to transfer the registration of persons who have moved within the city. No person can register who has not been listed in this census (except by petitioning for a special listing, which is made after investigation), and those who have been previously registered are stricken from the rolls unless they are listed from some address within the city. If they are listed from a different address, their registration is transferred.

In 1912 Milwaukee started a permanent registration system which is simplicity itself. The voter is registered on a card, four by six inches in size. When he moves he may transfer his registration by mailing in a simple transfer request. The police force makes a house-to-house canvass of all registered voters before principal elections, and the registration of those who are not found is cancelled. Registration is conducted throughout the year at the central office in the city hall. The annual cost of the system is about 12.5 cents per registered voter, as compared with an average cost of about 75 cents in cities with annual registration. The system results in a high registration with a minimum of bother to the voter.

Omaha was the scene of flagrant election frauds in 1912. The following year the legislature passed a new election law, including permanent registration of voters. This law was drafted without knowledge of either the Milwaukee or the Boston system, but it is

[1] David R. Castleman, "Louisville Election Frauds in Court and Out," *National Municipal Review*, Dec., 1927; Taylor v. Nuetzel, 295 S. W. 873 (1927).

[2] Session Laws of Indiana, Ch. 195.

[3] The permanent registration systems of various cities are described in detail by the writer in a series of articles in the *National Municipal Review*: Minneapolis, Sept., 1924; Milwaukee, Oct., 1925; Boston, Sept., 1926; Omaha, Nov., 1926.

similar in many details to the former. It has put an end to voting frauds, and has given complete satisfaction. Portland, Oregon, next adopted a permanent registration law in 1915, which has also operated successfully. The Portland law (which, in fact, applies to the entire state of Oregon) contains a provision for cancellation for failure to vote within two years, and this alone is relied upon to keep the registers purged. Other states which have adopted permanent registration include Connecticut, Maine, Maryland, Colorado, Utah, Montana, Nevada, Michigan, and a number of southern states. In most of these states the law is designed for rural conditions, and would not work well in a large city.

In 1922 the Chicago Bureau of Public Efficiency became interested in registration and Mr. George Sikes, of the staff, traveled widely, making a study of different systems in operation.[4] The following year Minnesota adopted permanent registration for the largest cities of the state, patterned closely after the Milwaukee law.[5] In 1925 the law was extended to all cities of 10,000 and over.[6] The success of the Minnesota law attracted a great deal of attention in other parts of the country, and civic organizations in a number of large cities undertook campaigns for permanent registration. In 1924 permanent registration was provided by the legislature of Kentucky,[7] and in 1925 by Indiana,[8] Idaho,[9] and Delaware,[10] though the law in each state was defective in important details. New Jersey followed in 1926.[11] The Municipal Research Bureau of Philadelphia became interested in the subject and drafted a permanent registration bill which was introduced at the regular session of the state legislature in 1925 and in 1926 at the special session. The National League of Women Voters adopted registration as a study subject in 1924.[12] State and local branches of this organization have been instrumental in pushing permanent registration bills.

[4] See *A Proposed System of Registering Voters and of Canvassing the Registration Lists in Chicago* (1923).

[5] Session Laws of Minnesota, Ch. 305.

[6] *Ibid.*, Ch. 375.

[7] Session Laws of Kentucky, Ch. 64.

[8] Session Laws of Indiana, Ch. 138.

[9] Session Laws of Idaho, Ch. 96.

[10] Session Laws of Delaware, Ch. 106.

[11] Session Laws of New Jersey, Ch. 328.

[12] Helen M. Rocca, *Registration Laws*, published by the National League of Women Voters (1925).

Bills providing for permanent registration were introduced in seven states at the 1927 sessions, and were enacted in two, i.e., Wisconsin[13] and Iowa.[14] The bills were passed in Ohio and Washington, only to be vetoed by the governors. In Ohio the registration bill was a part of a new election code, which was vetoed in its entirety because of other features. The Washington bill was vetoed ostensibly on the ground that public records should not be loose-leaf in form, as was provided. In three other states, Pennsylvania, Missouri, and California, the bills failed to pass the legislature. In Missouri and Pennsylvania the bills did not meet with the approval of the party machines, while in California the bill was defeated because it would have affected adversely the salary of the county clerks, who are paid a fee for each new registration. In all of these states the registration bills were in substantial accord with the specifications for a model registration system of the National Municipal League Committee.[15] In several instances they were patterned directly upon these specifications.

In 1927 Indiana repealed a cumbersome and ineffective permanent registration law. It is assumed that the next session of the legislature will grapple with the problem. A bill providing for a new scheme of permanent registration was passed by the Kentucky legislature of this year, but was vetoed by the governor after the legislature had adjourned.

The new registration law of Wisconsin applies to all cities in the state of 5,000 population or over, except in Milwaukee county. The bill was sponsored by the State League of Women Voters. The city clerk is made the chief officer of registration. He is required to conduct registration at his office throughout the year, prepare the lists of registered voters for use at the polls, and purge the registers periodically. He is given the power to conduct registration outside of his office when in his discretion this is necessary. The records may be either loose-leaf or cards, and contain an affidavit which is signed by the registrant. An unusual feature of the Wisconsin law is that the city clerk is required to secure each month from the gas and electric company a list of removals of service, and from this make the proper transfers within the city. The voter is to be sent a form notice of the transfer. It is anticipated that most removals will be taken care of

[13] Session Laws of Wisconsin, Ch. 208.

[14] Session Laws of Iowa, Ch. 21.

[15] "A Model Registration System," Supplement to the *National Municipal Review*, Jan., 1927.

without any bother to the voter. The Wisconsin law makes it possible at the election for the two poll clerks in each precinct to be dispensed with. The city clerk is required to supply the precinct board with two official typewritten lists of registered electors. As each voter casts his ballot, a serial number is entered after his name, and at the close of the election these lists take the place of the two poll lists which formerly were prepared by the clerks. This provision will reduce the cost of elections by more than the total cost of operating the registration system.

The new law in Iowa is modeled closely upon the Minnesota system. Of particular importance is the requirement that every voter shall sign a certificate of registration when he applies to vote, the signature to be compared with that on the registration records. The law at present applies only to the city of Des Moines, but it may be adopted by other cities having a population of 10,000 or over. The bill was drafted by the Des Moines Bureau of Municipal Research.

Permanent registration possesses many advantages over annual, biennial, or quadrennial registration. It is far less expensive, is more convenient to the elector, results in a higher registration, and is more effective in preventing voting frauds. Permanent registration cannot, however, be grafted upon existing periodic systems. It requires entirely different procedure, records, and methods of purging the registers. The experience of many large cities demonstrates that it is entirely feasible to keep the registers corrected from year to year, provided proper means are used. This type of registration is spreading rapidly and will probably be adopted by practically every state within a few years.

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Primary Election Legislation in 1926-27.[1] The primary legislation of the past two years is more voluminous than important. During

[1] Presidential primary legislation, covered in the February, 1928, number of the *Review*, is not included here. The legislatures of Kentucky, Louisiana, and Mississippi were in session in 1926 only; those of Alabama, California, Georgia, Massachusetts, Michigan, Nevada, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Virginia, and Washington were in regular or special session in both 1926 and 1927; while South Dakota, Texas, Vermont, and West Virginia held both regular and special sessions in 1927. In the remaining states the legislatures met only in 1927. The session laws of Florida were not available at the time this note was prepared.

the sessions of 1926 and 1927 all of the states except Arkansas, Connecticut, Kentucky, Louisiana, Minnesota, Mississippi, Tennessee, Vermont, and Wyoming amended their primary election laws or modified features of other statutes which affect these primary laws. There is nothing startling in this legislation. No new states have been added to the list of those having direct, state-wide primaries; on the other hand, there is no case where such laws have been repealed or seriously modified. Few innovations have been introduced, and in many cases the amendments are of slight importance. Taken together, however, the changes indicate a persistent effort to iron out petty difficulties as they arise.

One primary election law has been rewritten and another has been recodified. When the supreme court of Illinois held the primary act of 1910 unconstitutional on technical grounds, the legislature passed a series of acts to take its place.[2] So far as nominations for state and judicial offices are concerned, this act made no important changes.[3] New Mexico has recodified her election laws, but with no essential changes so far as nominating methods go.[4]

Four states have made slight changes in the scope of their primary laws. Montana has made her direct primary act applicable to every political party which cast three per cent or more of the total votes for representative in Congress at the last general election;[5] Maryland has repealed the act extending the direct primary to county commissioners of Anne Arundel county;[6] North Carolina has extended her direct primary law to candidates for county offices and the lower house of the state legislature in Brunswick county;[7] and Rhode Island has brought the town of Warwick under the provisions of her caucus act.[8]

[2] *Laws of Illinois*, 1927, Chs. 189, 190, and 191, p. 459. This act has been upheld by the highest state court.

[3] For its effect upon the presidential primary, see note in this *Review*, February, 1928, p. 108.

[4] *Laws of New Mexico*, 1927, Ch. 41, p. 76. All nominations are still made by conventions.

[5] *Laws of Montana*, 1927, Ch. 7, p. 9. The original act applied to "all political parties."

[6] *Laws of Maryland*, 1927, Ch. 241, p. 425. This same provision, when repealed by Ch. 340 of the *Laws of 1922*, was submitted to referendum and defeated.

[7] *Acts of North Carolina*, 1927, Ch. 106, p. 344. There are still several counties where nominations are not made for these offices by direct primary unless that method is adopted by referendum vote of the county.

[8] *Acts and Resolves of Rhode Island*, 1927, Ch. 938, p. 1.

Several changes in date have been made, but in no case is the shift from a fall to a spring date or *vice versa*. The date of the South Dakota primary election has been changed from the fourth Tuesday in March to the fourth Tuesday in May, the dates of precinct, county and state proposal meetings being made proportionately later.[9] Less important changes in date are Massachusetts, from the eighth to the seventh Tuesday preceding the general election;[10] Michigan, from the second Tuesday in September to the Tuesday succeeding the first Monday in the same month;[11] Montana, from the ninety-first day preceding the general election to the third Tuesday in July;[12] and New Hampshire, from the first Tuesday in September to the Tuesday after the second Monday in the same month.[13] Maine[14] and South Carolina[15] have made slight changes in the polling hours for primary elections.

The most important change in qualifications for participating in primary elections has been made by Colorado, which has abandoned the "open" primary. Now when a voter presents himself at a primary election he must declare the name of the party with which he desires to affiliate and is given only the ballot of that party. The party affiliation given at the time of the first primary stands as a permanent party enrollment until changed by the voter or until his removal from the county.[16] Colorado's abandonment of the "open" ballot leaves Montana and Wisconsin as the only states in which a voter may participate in the primary of either party with no questions asked. In Kansas provision has been made for a party enrollment for the first time. The party affiliation given at the first primary after the passage of the act stands as a permanent record until changed by written request of the voter at least thirty days before a primary election, and he may participate only in the primary of the party with which he is enrolled.[17] Previously, Kansas depended upon the "challenge" method to keep voters from participating in the primaries of other parties. Texas has brought her qualifications for voting into line

[9] *Session Laws of South Dakota*, 1927, Ch. 113, p. 131.
[10] *Acts and Resolves of Massachusetts*, 1926, Ch. 96, p. 116.
[11] *Public Acts of Michigan*, 1927, No. 174, p. 279.
[12] *Laws of Montana*, 1927, Ch. 3, p. 4.
[13] *New Hampshire Laws*, 1927, Ch. 137.
[14] *Laws of Maine*, 1927, Ch. 17, p. 13.
[15] *Acts of South Carolina*, 1927, No. 105, p. 196.
[16] *Session Laws of Colorado*, 1927, Ch. 98, p. 319.
[17] *Session Laws of Kansas*, 1927, Ch. 203, p. 257.

with the decision of the Supreme Court of the United States invalidating the so-called "white primary" provision of the law of 1923.[18] The party state executive committees have power to prescribe qualifications for participation, provided that no person be denied the right to participate in a primary because of former political views or affiliations or because of "membership or non-membership in organizations other than the political party."[19] One cannot but wonder if there is not a thinly veiled allusion to the Ku Klux Klan in this provision. Massachusetts has stiffened the party enrollment feature of her law by making it necessary to appear in person in order to change one's party affiilation.[20] Maine,[21] Pennsylvania,[22] South Carolina,[23] and Oregon,[24] have made unimportant changes in their enrollment features.

When registration is required for general elections it is usually a qualification for participating in the primaries as well. Consequently it is necessary to give brief consideration to those changes in registration systems which affect the primaries. The most noteworthy development in this field is Indiana's repeal of her entire registration law.[25] Three states have made provision for permanent registration—Iowa in cities of over 125,000,[26] New Jersey in cities of 15,000 or more,[27] and Wisconsin in cities of 5,000 or more.[28] Minor amendments affecting registration were enacted in Delaware,[29] Idaho,[30] Missouri,[31] Nevada,[32] and South Dakota.[33]

[18] *General Laws of Texas*, second extra session, 1923, p. 74. This was declared unconstitutional in *Nixon v. Herndon*, 273 U. S. 536 (1927).

[19] *General Laws of Texas*, extra session of 1927, Ch. 67, p. 193.

[20] *Acts and Resolves of Massachusetts*, 1927, Ch. 101, p. 81.

[21] *Laws of Maine*, 1927, Ch. 221, p. 209.

[22] *Laws of Pennsylvania*, 1927, No. 463, p. 972.

[23] *Acts of the General Assembly of South Carolina*, 1927, No. 164, p. 269.

[24] *General Laws of Oregon*, 1927, Ch. 204, p. 248, to bring the enrollment features into accord with the new registration provisions of the amendment to Art. II, Sec. 2, of the constitution.

[25] *Laws of Indiana*, 1927, Ch. 195, p. 567.

[26] *Acts of the 42d General Assembly of Iowa*, 1927, Ch. 21, p. 13.

[27] *Laws of New Jersey*, 1926, Ch. 328, p. 714; amended 1927, Ch. 136.

[28] *Session Laws of Wisconsin*, 1927, Ch. 208.

[29] *Laws of Delaware*, 1927, Ch. 83, p. 212.

[30] *Session Laws of Idaho*, 1927, Ch. 200, p. 275.

[31] *Laws of Missouri*, 1927, p. 185.

[32] *Laws of Nevada*, 1927, Ch. 170, p. 289.

[33] *Session Laws of South Dakota*, 1927, Ch. 112, p. 130.

Many recent amendments are concerned with the way in which, and the time at which, declarations of candidacy and nominating petitions are to be filed. California has substituted for the petition method of placing candidates' names upon the ballot a novel "sponsor" system.[34] Sponsor declarations of candidacy may be filed by small groups (65 to 100 for state offices and United States senator). Sponsors must be members of the party in which the nomination is proposed, and the law attempts to secure a measure of responsibility for these candidacies by requiring the names of candidates and their sponsors to be printed in a pamphlet which is distributed to the voters before the primary. Sponsor declarations must be accompanied by the acceptance of the candidate. If the declaration of candidacy is made by the candidate himself, it must be supported by sponsor declarations. Nominal filing fees are required.

Another unique amendment comes from Oklahoma.[35] The filing of any person as a candidate for the nomination of a party may be challenged on the ground that the filing is frivolous or not made in good faith. If, within three days after the expiration of the filing date, a petition to this effect is signed by from 10 to 100 qualified voters (the number depending upon the importance of the office) the name of the candidate will be dropped from the ballot unless, within five days, he files a petition signed by from 100 to 1,000 qualified voters that it be left on, or deposits $50 to $250 with the election board. In case the challenged candidate receives ten per cent or more of the votes cast, the deposit is returned to him.

New Jersey now makes it necessary for a person endorsed as a candidate of a party by nominating petition to state that he is a member of the party in his acceptance of candidacy.[36] Individual proposal petitions for independent candidacies in South Dakota must now be signed by five per cent of the party electors, instead of one per cent as formerly.[37]

Arizona,[38] Michigan,[39] Virginia,[40] Nevada,[41] Nebraska,[42] Penn-

[34] *Statutes of California*, 1927, Ch. 838, p. 1686.
[35] *Oklahoma Session Laws*, 1927, Ch. 98, p. 158.
[36] *Laws of New Jersey*, 1926, Ch. 80, p. 126.
[37] *Session Laws of South Dakota*, 1927, Ch. 113, p. 135.
[38] *Laws of Arizona*, 1927, Ch. 12, p. 23.
[39] *Public Acts of Michigan*, No. 242, p. 279.
[40] *Virginia Acts of Assembly*, Extra session, 1927, Ch. 65, p. 157.
[41] *Laws of Nevada*, 1927, Ch. 124, p. 205.
[42] *Session Laws of Nebraska*, 1927, Chs. 98 and 99, pp. 277 and 278.

sylvania,[43] and Utah,[44] have made slight changes in the dates or hours when nominating petitions or declinations of nomination must be filed.

A few interesting changes have been made in the arrangement of the ballot and the designation of candidates on the ballot. In Montana rotation of names has been substituted for the old alphabetical order.[45] North Dakota has changed the designation of the ballot upon which judges, county officers, and school superintendents are nominated from "non-partisan" to "no party primary ballot."[46] California has found it necessary to provide that where two or more judges are to be nominated at the same time each vacancy shall be designated by a distinguishing number and each candidate for nomination shall specify for which vacancy he seeks to be nominated;[47] and Georgia has amended a provision requiring candidates for judge and the general assembly to do the same thing.[48]

We find few significant changes in provisions dealing with the determination of nominees and filling of vacancies. However, Kansas has made it unnecessary to hold a city primary unless there are more than two candidates for any office, [49] and Oklahoma has provided that the names of unopposed candidates for nomination shall be left off the primary ballot.[50] New Hampshire has given the party committees power to fill vacancies in nominations when no declarations of candidacy are filed. The committees must, however, pay the fee or file the petition required of candidates for nomination.[51] Nebraska has provided that when a political party fails to nominate a candidate for any office at the primary, such place shall remain unfilled unless filled by petition;[52] and Montana makes it necessary for a candidate receiving a nomination by a "written in" vote to file an acceptance

[43] *Laws of Pennsylvania*, 1927, No. 236, p. 372.

[44] *Laws of Utah*, 1927, Ch. 48, p. 69.

[45] *Laws of Montana*, 1927, Ch. 14, p. 19.

[46] *Laws of North Dakota*, 1927, p. 172.

[47] *Statutes of California*, 1927, Ch. 316, p. 528.

[48] *Georgia Laws*, 1927, No. 152, p. 245.

[49] *Session Laws of Kansas*, 1927, Ch. 201, p. 255. City primaries are non-partisan and in case only two candidates file for any one office their names appear on the general election ballot.

[50] *Oklahoma Session Laws*, 1927, Ch. 98, p. 160.

[51] *New Hampshire Laws*, 1927, Ch. 137.

[52] *Session Laws of Nebraska*, 1917, p. 275. In Nebraska in order to be nominated a candidate must receive at least five per cent of the party vote cast at the primary.

of the nomination and pay the fee required of those candidates who have their names put on the primary ballot by petition.[53]

Regulations of party committees and conventions must be considered as part of the machinery of party nominations. Michigan, Ohio, and Washington have joined the ranks of the states which give women representation upon the party state committees. Ohio[54] and Washington[55] require these committees to be composed of one man and one woman from each congressional district, thereby giving women equal representation; but Michigan[56] has increased the number of members from each congressional district to three and stipulates that only one of these *must* be a woman. California[57] and Massachusetts[58] have found it necessary to specify that only duly enrolled party members may be elected to membership on party committees. Amendments in Oregon[59] and Massachusetts[60] concern the organization of the state committee. The Oregon act specifically provides that the officers of the committee need not be members of the state committee or any county committee. Other minor amendments affecting party committees have been passed by Massachusetts,[61] Montana,[62] Rhode Island,[63] and Washington.[64]

Amendments affecting conventions have been made by Michigan, New York, and Texas. In Michigan, delegates to county conventions (which select the delegates to state conventions) may be chosen in conformity with the direct primary law if any county so decides by referendum vote.[65] New York has modified the rules governing convention procedure. It is no longer necessary for the permanent chairman to be chosen by roll call, and where only one candidate is placed in nomination for an office the vote may be taken *viva voce*.[66] Texas has changed the date of the state convention from the second Tues-

[53] *Laws of Montana*, 1927, Ch. 125, p. 405.
[54] *Laws of Ohio*, 1927, p. 175.
[55] *Laws of Washington*, 1927, Ch. 200, p. 287.
[56] *Michigan Public Acts*, 1927, No. 1, p. 3.
[57] *Statutes of California*, 1927, Ch. 372, p. 608.
[58] *Acts and Resolves of Massachusetts*, 1927, Ch. 25, p. 17.
[59] *General Laws of Oregon*, 1927, Ch. 109, p. 104.
[60] *Acts and Resolves of Massachusetts*, 1927, Ch. 295, p. 350.
[61] *Ibid.*, 1926, Ch. 100, p. 119.
[62] *Laws of Montana*, 1927, Ch. 98, p. 337.
[63] *Acts and Resolves of Rhode Island*, 1927, Ch. 1018, p. 178.
[64] *Laws of Washington*, Special session 1925–26, Ch. 158, p. 448.
[65] *Michigan Public Acts*, 1927, No. 110, p. 147.
[66] *New York Laws*, 1926, Ch. 632, p. 1128.

day in August to the "first Tuesday after the third Monday after the fourth Saturday in August."[67]

Four states have dealt with the problem of corrupt practices in primary elections.[68] The Arizona and New Hampshire amendments are interesting inasmuch as they increase the amounts which candidates may spend in primary campaigns. As Arizona increases the amount which candidates for United States senator may spend from $1,500 to $3,500,[69] and New Hampshire from $1,000 to $8,000,[70] it is apparent that the limits are still very low.

Unimportant amendments of a miscellaneous character have been made by Nevada (requiring sample primary election ballots supplied various officials to be the same size as the official ballot),[71] Texas (relating to assessment of candidates, certification of the results of primary elections, and hearing contests over nominations),[72] and Wisconsin (relating to the time when the secretary of state shall submit lists of nominees to county clerks and the fees charged local units for publishing notices of primary elections).[73]

Such has been the legislative harvest of the last two years so far as primary elections are concerned. But if we are to get a clear idea of the present-day attitude of legislative bodies toward the nominating process we must give at least brief consideration to some unsuccessful efforts to modify primary laws.

A bill providing for repeal of the direct primary was introduced into the Florida legislature of 1927 but failed of passage. In Indiana the 1926 state platforms of both parties declared for modification of the direct prima[illegible], and two bills, one repealing the direct primary outright and the other restoring the convention for all nominations except governor, were introduced during the 1927 session. Both failed to pass. In Kansas, in 1927, opponents of the direct primary introduced three bills, one providing for the repeal of the direct primary, the other two for serious modification. All failed of passage.

[67] *General Laws of Texas*, special session, 1926, Ch. 15, p. 27.

[68] *Alabama Laws*, 1927, No. 131, p. 89; *Laws of Arizona*, 1927, Ch. 22, p. 76; *New Hampshire Laws*, 1927, Ch. 137; and *Acts of West Virginia*, 1927, Ch. 64, p. 160.

[69] *Laws of Arizona*, 1927, Ch. 32, p. 76.

[70] *New Hampshire Laws*, Ch. 137, p. 156.

[71] *Laws of Nevada*, 1927, Ch. 169, p. 287.

[72] *General Laws of Texas*, 1927, Ch. 19, p. 24; Ch. 54, p. 77; and Ch. 196, p. 280.

[73] *Laws of Wisconsin*, 1927, Ch. 176, p. 178, and Ch. 269.

The modification of the direct primary was one of the leading issues throughout the 1927 session in Massachusetts. A bill providing for legalizing the pre-primary convention was reported favorably by the elections committee but was not passed, and the whole matter was finally referred to a recess committee of the legislature.[74] In Maine an initiated bill providing for repeal of the entire direct primary law was voted upon at a special election held October 18, 1927, and defeated by 30,114 to 20,027.[75] Although the repeal of the direct primary was the principal subject of discussion throughout the 1927 legislative session in New Hampshire, no action was taken. In New Jersey, in 1926, a bill repealing the direct primary failed of passage by one vote, and the question of repeal became an issue in the state campaign. Nevertheless the legislature of 1927 failed to take any action. Opponents of the direct primary in Ohio are faced with the necessity of amending the constitution. At the election of November, 1926, an initiated amendment which would have given the legislature the power to determine nominating methods was voted upon and defeated decisively. The direct primary continued to be a lively issue in Washington during the 1927 session of the legislature, but all proposals met with defeat.

Attacks upon the direct primary thus continue, but fewer repeal bills were introduced in 1927 than in 1925. This, coupled with the decisive votes in Ohio and Maine, indicates that there is no reason to expect a revival of the convention system.

In at least two instances during the past two years, primary election legislation has been rendered negative by court decisions. The decision of the Supreme Court of the United States in holding the Texas "white primary" act void has already been mentioned. In Oklahoma the highest court of the state has declared the interesting compulsory preferential voting amendment of 1925 null and void as a violation of that section of the state constitution which provides that "no power shall ever interfere to prevent the free exercise of the right of suffrage."[76]

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[74] The committee has recommended a return to the convention method of nominating secretary of state, state treasurer, state auditor, and attorney-general. See *Report of the Joint Special Committee on the Administration and Operation of the Election Laws*, December, 1927, p. 42.

[75] Information supplied by the secretary of state.

Campaign Contributions and Expenditures, 1926-27. Of the twenty-eight states that enacted legislation on the subject of elections in 1926–27, twelve passed statutes relating to campaign funds, and in ten of these cases changes were made in existing laws. Legislation on this subject can commonly be classified under three titles: limitation on expenditures of candidates or committees or both, specification of objects of legitimate expenditure, and requirement of filing statements covering campaign financial transactions. The legislation of 1927 (none was enacted on this subject in the sessions of 1926) covered all of these phases, the restrictions on expenditures receiving major attention.

Legislation limiting expenditures is further to be classified, (a) as to the method used in fixing the maximum amounts, i.e., flat rate per office, percentage of salary of the office, or in relation to the number of voters or vote cast in preceding elections, and (b) as to expenditures by the candidate personally or "by and on his behalf." Under these rubrics, the laws of 1927 were confined to fixing flat rates per office, and in each case covered expenditures by the candidate and on his behalf. This latter tendency seems readily attributable to the defense frequently set up in the past that large expenditures in question were made by friends or relatives of the candidate without his knowledge and consent. There seems also to be a tendency to exclude certain items of expenditure of a variable character from the maximum figures set by the laws.

Arizona, which in 1921 excluded from the limits fixed that year expenditures for stationery, postage, printing, and advertising in newspapers and picture shows,[1] changed the list in 1927 to read "exclusive of necessary personal, traveling, or subsistence expenses" and increased the maximum amounts. Candidates for nomination at the primaries are now limited as follows: United States senator, $3,500 (formerly $1,500); United States representative and governor, $2,500 (formerly $1,000); supreme court judge, $1,000 (formerly $750); other state officers, $1,500 (formerly $1,000); state senator and representative, $250 (formerly $200).[2]

[76] *Dove v. Ogleby*, 244 Pacific 798 (1926). For a discussion of the case see Robert E. Cushman, "Public Law in the State Courts in 1925–26," *American Political Science Review*, XX, 588 (Aug., 1926).

[1] *Session Laws of Arizona*, 1921, Chap. 172.

[2] *Ibid.*, 1927, Ch. 32.

Arkansas restricted expenditures in initiative and referendum elections by an act whose intent was declared to be "to limit expenditures [by persons and corporations] to $25,000 in securing signers to petitions and for all other campaign expenditures in connection with initiative and referendum measures."[3]

Florida increased the maximum allowable expenditures "by the candidate himself or his campaign manager or committee" in nomination campaigns to the following amounts: United States senator and governor, $15,000; other state offices, $5,000; congressman, $4,000; justice of supreme court, $4,000; state attorney, $1,200; presidential elector and delegate-at-large to national conventions, $1,000; district delegate to national conventions, $600.[4]

New Hampshire increased the maximum expenditures in nomination campaigns at the same time that it broadened the scope of the limitations. Previously, the limits applied to the candidate's personal expenditures;[5] but the new act reads: "all expenditures by a candidate or by others in his behalf with his knowledge during the calendar year of the primary, except personal traveling expenses of the candidate." The present limits are: United States senator and governor, $8,000 (formerly $1,000); United States representative, $4,000 (formerly $5,000); councilor, $1,500 (formerly $250); state senator and county officer, $300 (formerly $100); state representative, $50 (formerly $25).[6]

Tennessee for the first time imposed restrictions by limiting the amount to be expended by the candidate and by others on his behalf in the primary or convention to: United States senator and governor, $10,000; United States representative, $5,000; other state-wide offices, $5,000; judge of supreme court, $3,000; district attorney and circuit judge, $2,500. Additional like amounts may be expended in the final election campaign.[7]

The West Virginia legislature was notably liberal in its regard for candidates in that it not only increased the maximum amounts for offices but excluded from the limitations necessary personal, traveling, and subsistence expenses of the candidate, as well as expenditures for stationery, postage, printing, distributing circulars and posters,

[3] *Acts of Arkansas*, 1927, Act 157.
[4] *Acts of Florida*, 1927, Ch. 12199.
[5] *Public Laws of New Hampshire*, 1925, Ch. 34, Sec. 5.
[6] *Ibid.*, 1927, Ch. 137.
[7] *Public Acts of Tennessee*, 1927, Ch. 59.

and telegraph and telephone service.[8] The present allowable expenditures in the primary "by or on behalf of any candidate" are: United States senator and any state office, $100 per county; state legislator, $125 per county; United States representative, $2,500; county offices, $300; other offices, $50. Additional like amounts may be expended in the general election campaign.

Wisconsin separated the expenditures in nomination and election campaigns and revised the schedule adopted in 1913.[9] Expenditures "by or on behalf of any candidate in his campaign for nomination" shall not exceed the following amounts: United States senator, $5,000; United States representative, $1,750; governor, $4,000; judge of supreme court, $3,000; state superintendent of schools, $3,000; other state offices, $1,500. Expenditures in the campaign for election shall not exceed one-half of these amounts.[10]

Campaigning for office in Nebraska will undoubtedly henceforth be a more expensive process, following the addition of "newspaper advertising" to the list of unrestricted expenditures.[11] Pennsylvania kept pace with modern methods of campaigning by adding "the rental of radio facilities" to its list of lawful objects of expenditure, and then reflected the disclosures of the Reed investigation committee by limiting expenditures for "watchers" at the polls to $10 per day in city election districts and $5 per day in any other election district, there having been no previous limit set by law to the "wages" of watchers.[12]

Legislation in respect to publicity and filing statements of campaign funds was meagre in 1927. Arizona now requires that statements of receipts and expenditures be filed by "every person, firm, corporation, club, league, or association which engages in political propaganda and collects or expends any money or valuable thing" in connection therewith.[13] Minnesota formerly required monthly financial statements of candidates and committees from the opening of the campaign until election day, but now omits reports in July, August, and September.[14] Tennessee has provided, in a new and comprehensive

[8] *Acts of West Virginia*, 1927, Ch. 64.
[9] *Statutes*, Sec. 12, 20.
[10] *Session Laws of Wisconsin*, 1927, Ch. 263.
[11] *Session Laws of Nebraska*, 1927, Ch. 101.
[12] *Laws of Pennsylvania*, 1927, No. 233.
[13] *Session Laws of Arizona*, 1927, Ch. 66, 67.
[14] *Session Laws of Minnesota*, 1927, Ch. 75.

election law, that statements shall be filed by candidates, committees, and individuals showing in detail contributions received and expenditures made by them in any caucus, convention, primary, or final election, or in any referendum election.[15]

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Conduct of Elections and Returns. Legislation enacted at the recent sessions of the state legislatures regarding the conduct of elections, i.e., the election process from the time the registration books are turned over to the election officers to the close of voting, may be arranged under three heads: voting machines, assistance to voters, and election officers.

Two states, Arizona[1] and Arkansas,[2] legalized the use of voting machines throughout the state, and in a third state, Oklahoma, machines were legalized for Oklahoma county. In Iowa, where machines had already been legalized, a law was passed requiring voting machines to be used, except when more than seven political parties have nominated candidates whose names are entitled to be placed on the ballot.[3] In Pennsylvania a proposed constitutional amendment legalizing the use of machines received the affirmative vote of the legislature, and will be submitted to the voters.

The laws legalizing the use of voting machines are similar in content. The machines are to be bought and paid for by local authorities, and detailed specifications regarding the type of machine are given. In Arizona[4] and Arkansas[5] experimental use of the machines in one or more precincts may be made without binding the authorities to purchase machines for all the precincts. The Oklahoma law provides that the number of voters in the precinct shall not exceed 600. In all three states the method prescribed for reading the vote is the same. Reliance is placed upon bipartisanship to insure the accuracy of the reading, by requiring that the vote shall be read by officers of different political parties in the presence of watchers.

Some new regulations of the use of voting machines were adopted

[15] *Public Acts of Tennessee*, 1927, Ch. 59.
[1] *Session Laws of Arizona*, 1927, p. 149.
[2] *Session Laws of Arkansas*, 1927, p. 457.
[3] *Session Laws of Iowa*, 1927, p. 217.
[4] *Session Laws of Arizona*, 1927, p. 149.
[5] *Session Laws of Arkansas*, 1927, p. 457.

in states where machines have already been authorized. In Arizona[6] and Oregon[7] laws were passed limiting the time the voter can remain at the voting machine to two minutes. In California[8] and Oregon[9] acts were passed providing for election boards of three members where machines are used, allowing an additional member for each additional machine.

A few state legislatures dealt with the problem of giving assistance to voters. California adopted a system of giving assistance to illiterate and helpless voters whereby the need for assistance must be declared at the time of registration.[10] Assistance must be given by officers of different political faith, and a list of the assisted voters must be kept. In Nevada legislation was enacted providing assistance to voters physically disabled, such assistance to be given by two inspectors of different political parties.[11] Inability to read and write are not considered physical disability. And in New Mexico a law was passed authorizing assistance in the same manner to blind voters or those unable to mark the ballot without aid, requiring that a record of the assisted voters be kept in the poll-book.[12]

The Pennsylvania legislature also enacted some legislation regarding assistance to voters.[13] Assistance is allowed to voters who have declared that they cannot read the names on the ballot, or that by reason of physical disability they are unable to see or mark the ballot, or that they are unable to enter the voting compartment without assistance. A voter allowed assistance may select another voter to assist him. The judge of election is required to make note of such assistance in the "record of assisted voters," stating the name of the voter assisted, the form of disability, and the name of the person furnishing assistance. The record of assisted voters is returned to the prothonotary of the common pleas court in the case of general, municipal, or special elections, and to the county commissioners in the case of primary elections. In any case the record of assisted voters can be examined only upon the order of a judge of the court of common pleas. Penalties of a maximum fine of $1,000 and one to two years

[6] *Session Laws of Arizona*, 1927, p. 147.
[7] *Session Laws of Oregon*, 1927, p. 85.
[8] *Session Laws of California*, 1927, p. 599.
[9] *Session Laws of Oregon*, 1927, p. 85.
[10] *Ibid.*, 1927, p. 471.
[11] *Session Laws of Nevada*, 1926–1927, p. 85.
[12] *Session Laws of New Mexico*, 1927, p. 101.
[13] *Session Laws of Pennsylvania*, 1927, p. 363.

imprisonment, for voters and election officers alike, are provided for violations.

The legislation regarding election officers had to do chiefly with the establishment of counting boards. The legislatures in Nebraska,[14] Nevada,[15] and New Mexico[16] established such boards. In Nebraska, in precincts where more than 150 votes were polled at the last election there is established a counting board of four members appointed by the clerk of the district court. In Nevada, in precincts having at least 200 voters a counting board of five members is provided, to be appointed by the county commissioners. In New Mexico a counting board of five is provided, three to be appointed by the county commissioners, with authority to choose two clerks. In all three states the laws establishing counting boards provide also for election boards of similar composition and manner of obtaining office.

In Missouri, in counties of 100,000 to 150,000 population, boards of election commissioners of two members, appointed by the governor with the consent of the senate, were established.[17] The members of the board have four-year terms, at a yearly salary of $2,000. The board selects all precinct election boards and has charge of elections and registration. In New Jersey, legislation was enacted adjusting the compensation of county boards of election ranging from $2,600 yearly in counties having population of 500,000 to $300 in counties with less than 40,000.[18] In Pennsylvania, legislation was enacted regulating the compensation of watchers.[19] The maximum pay for watchers in city districts is placed at $10, and in other districts at $5.

Some legislation was enacted affecting the count and recount of the vote. It has already been stated that in the three states legalizing the use of voting machines the vote is required to be read by officers of different parties in the presence of watchers. Also it has been seen that counting boards were established in three states. In Nevada, legislation was enacted providing for a counting board to begin the count at the close of the polls.[20] In Nebraska the counting boards begin the count three hours after the polls open.[21]

[14] *Session Laws of Nebraska*, 1927, p. 268.
[15] *Session Laws of Nevada*, 1927, p. 291.
[16] *Session Laws of New Mexico*, 1927, p. 86.
[17] *Session Laws of Missouri*, 1927, p. 234.
[18] *Session Laws of New Jersey*, 1927, p. 375.
[19] *Session Laws of Pennsylvania*, 1927, p. 367.
[20] *Session Laws of Nevada*, 1927, p. 291.
[21] *Session Laws of Nebraska*, 1927, p. 268.

In Pennsylvania, some legislation was adopted affecting the manner of recount of the vote.[22] Ballot boxes may be opened by a judge of the common pleas court upon petition of three voters of the ward in which the precinct in question is located. The petitioners must make affidavit alleging that upon information which they consider reliable they believe that fraud was committed in marking the ballots or otherwise. The petitioners need not specify the particular act of fraud, nor offer evidence to substantiate their allegations. A deposit of $50 must be made by the petitioners, which is forfeited if fraud is not discovered. Ballot boxes may be opened at any time within four months after the election, but no order or decision of the court will affect the official return unless ballot boxes shall have been opened before the completion of computation of all the returns of the county, save when a contest has been instituted.

In Wisconsin, an act provided that any candidate may have a recount in any precincts in which he charges fraud, irregularity, or illegality, upon the payment of a $2 fee for each precinct. The opposing candidate is given the privilege of asking for a recount in any of the remaining precincts.[23]

There were a few minor acts regulating polling places, ballots, and duties of election officers; but the foregoing were the chief legislative enactments during the last session of the legislatures affecting the last two steps of the election process.

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[22] *Session Laws of Pennsylvania*, 1927, p. 360.
[23] *Session Laws of Wisconsin*, 1927, p. 445.

NOTES ON MUNICIPAL AFFAIRS

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Unlike several of its immediate predecessors, the year 1927 was one of great activity in municipal affairs. Important charter changes, bitter and dramatic city elections, and startling disclosures of corruption have kept students of municipal government agog throughout the past twelve months.

1. CHARTER CHANGES

Dealing first with charter changes, two important cities, Indianapolis and Buffalo, have adopted new forms of city government; Toledo has elected a charter commission and is in process of joining the ranks of manager cities; while Cleveland is in the throes of a violent contest over the retention of the manager form of government and proportional representation.

Indianapolis. On June 21, 1927, the people of Indianapolis voted, 53,912 to 9,954, to accept the city manager alternative which has been available to cities of Indiana since 1921. The result was due in part to a well organized campaign beginning with the 1925 primary election, and in part to sensational charges of violation of the corrupt practices acts by Mayor Duvall, which ultimately resulted in his conviction by the trial court and his removal from office. The city manager campaign organization made no direct use of the Duvall scandal, consistently refraining from attacking the city administration. On the other hand, the daily flaunting in the press of matters discreditable to the existing city government created a state of public opinion which made effective opposition to the manager plan impossible. The Indiana law permitting cities to adopt manager government provides for a council of seven members nominated by petition and elected at large by simple plurality. There is obviously not much to be said for such a system of election. Minority control of the council is not only possible, but even probable, under it. Otherwise the Indiana statute provides for what may be properly called a normal manager form of government. The plan cannot go into effect until January 1, 1930. At the last session of the legislature, an act known as the Sims law was passed which provided that the terms for which city officers have been elected may not be abridged by the adoption of a change of government.

In the meantime the governmental situation in Indianapolis can scarcely be called satisfactory. Mayor Duvall was ousted by the council on November 27. On the same day the council named its president, C. E. Negley, acting mayor. There was, however, in the law a provision that in case of a vacancy in the office of mayor, the comptroller should succeed. When Duvall was removed, his wife was comptroller. She assumed the office just long enough to name Ira M. Holmes comptroller. Her fifteen-minute incumbency probably is the shortest term of service in the mayorship on record anywhere. Both Holmes and Negley attempted to act as mayor, but the courts decided in favor of Negley. The ultimate outcome of this squabble was the election by the council, which consisted of seven Republicans and two Democrats, of L. E. Slack, a Democrat, as mayor.

Buffalo. The movement for a new city charter in Buffalo took definite form on November 26, 1926, when the people voted nearly two to one in favor of the appointment of "a commission to draft a new city charter." Immediately following, on December 1, 1926, the mayor appointed seven citizens, headed by Hon. Daniel J. Kenefick, as members of the charter commission. The new charter was completed and filed in the city clerk's office on June 28, 1927, and two days later the council authorized its submission to the electors of the city at a special election to be held August 29, 1927. On that day, the electors approved the proposed charter by a vote of 32,079 for, to 20,962 against. The charter became effective January 1, 1928, officials having been nominated and elected in the regular primary and election during the fall of 1927.

The charter campaign during the six weeks preceding the special election date was prosecuted vigorously by both sides. Defenders of the existing "commission government" charter pointed to what they asserted to be a wonderful record of achievement during the past twelve years in schools, parks, playgrounds, harbor development, and water supply, and insisted that any worthwhile features could be added to the existing charter by amendment. The advocates of the new charter called attention to the fact that the budget and assessments had trebled under commission government and pointed out that over 180 amendments to the old charter had failed to correct defects and improve conditions. Both sides developed effective speaker's bureaus, and thousands of citizens were reached through meetings or heard the arguments as presented over the radio. It was an informed electorate that went to the polls on August 29, 1927.

The new charter provides for a scheme of government as follows: (1) a mayor, elected for a four-year term and ineligible to succeed himself. An annual salary of $12,000 is provided, but is not effective until January 1, 1930. (2) A comptroller, elected for a four-year term. His salary is fixed at $8,000 per year, and he is not limited as to the terms he may serve. (3) A council of fifteen members, five of whom, with the president, are elected at large, and nine from nine newly created council districts. Councilmen-at-large and president have four-year terms, and they are ineligible for the next succeeding term. District councilmen are elected for two-year terms and are ineligible to serve more than two succeeding terms. The salary of a councilman is fixed at $2,500 a year, and the salary of the president at $6,000 a year. (4) The administrative service is divided into eleven departments, viz., the executive, audit and control, treasury, assessment, public works, police, fire, health, social welfare, and law, paralleling, in all but the executive, existing departments or branches of the city government. The executive department was given four main divisions of budget, purchase, license, and markets, each to be headed by a director to be appointed by the mayor without confirmation by the council. (5) The mayor is given power of appointment (subject to confirmation by the council) of important administrative officers such as the commissioner of public works, corporation counsel, director of parks, police, fire, etc. The mayor's power of appointment, however, does not become effective until January 1, 1930. Until that date such appointments are to be made by a board of three, composed of the mayor, comptroller, and president of the council. This restriction was made because the present mayor holds over for two more years, the unexpired balance of his present term of office.

In general, the electors looked upon the new charter as an improvement over the old commission government charter in the following major respects: (1) separation of legislative from administrative functions; (2) provisions for a more efficient departmental organization; (3) provisions for a more efficient, better qualified personnel in administration through qualification requirements; (4) provision for an executive budget and a definite budget procedure; (5) provision for centralized purchasing; (6) provision for cleaning up deficiency bonds outstanding; (7) provisions for controlling expenditures; (8) provisions for expediting public work; (9) provisions for opening "closed doors" on paving and permitting property owners to have the type of pavement they want; (10) provisions requiring

cost accounting of and reporting on public work done by any city department; and (11) provisions for protecting the interests of citizens, taxpayers, and municipal employees.

At the November, 1927, election, the new councilmen, president of the council, and comptroller were elected. As the new charter provides for partisan nominations and elections, the political parties came back into municipal affairs for the first time in more than twelve years. The Republicans elected the comptroller, the five councilmen-at-large, and eight of the nine district councilmen. As the holdover mayor is also a Republican, responsibility for municipal affairs in Buffalo for the next few years has been definitely placed upon the Republican party.

Director, Buffalo Municipal Research Bureau. HARRY H. FREEMAN.

Cleveland. Just seven years after the high tide of reform left Cleveland with a city manager, proportional representation, charter, she finds herself at the low ebb of reaction. It remains to be seen whether the lowest point was reached at the November, 1927, election in which the present charter was saved by six thousand votes, or whether it is yet to come at the April presidential primary when the contest is to be fought all over again.[1]

For many months before the November election of last year there had been signs of the gathering storm. It was whispered that Harry L. Davis, thrice-elected mayor of Cleveland and one-time governor of the state of Ohio, was gathering together the various elements of discontent for an attack on Hopkins and the charter; it was said that his objective extended even to the unseating of Maurice Maschke, Republican, from his place of leadership in the city and the county. About a year ago Davis filed his petitions for an election on his proposed charter. He made the mistake, however, of filing these with the board of elections rather than with the city council. After the supreme court of the state had decided that the latter was the proper course, Davis withdrew his proposed charter amendment for revision, and went to work to secure another set of petitions, the old ones having been retained by the board of elections. By this time the regular biennial councilmanic elections were approaching, and the charter election was set for the same date.

[1] This note was written in March, 1928. *Man. Ed.*

Besides the Davis amendment, two charter amendment proposals and a proposal for the election of a charter commission appeared on the ballot. Their apparent purpose was to serve as an offset to the Davis attack. The Friebolin amendment proposed changes in only ten of the 183 sections of the charter. It restored the single-member district system of election to the council and enlarged that body from twenty-five to thirty-three members. The preferential ("Mary Ann") ballot was substituted for the system of election by P. R. The rest of the charter, including the managership, was left intact. The Harris amendment, like that of Davis, was practically a new charter. A mayor, elected for a term of four years and placed in control of the administration, was substituted for the manager. A council of thirty-three chosen individually from the wards by the "Mary Ann" ballot was proposed. The Citizens' League sponsored the proposal for a charter commission, the methods of procedure set up in the existing charter, and the state constitution for the drafting and proposal of new city charters; and a list of names for the personnel of the charter commission was placed on the ballot. It was widely believed at the time that the men so named were acceptable to the two major party organizations, and, furthermore, that they would be favorable to the abolition of P. R. So much was to be thrown overboard to save the rest of the charter.

The Davis amendment was, in short, a strong-mayor charter. Some of its features were: a mayor popularly elected for a term of two years, who was to appoint all the administrative officers, was to be in charge of the administration, and was to receive a salary of $25,000; a council of thirty-three, elected individually from the old wards by a plurality single-choice ballot; a board of control consisting of the appointive heads of departments, which was given the function of fixing the rates for publicly-owned utility services. The head of a department was authorized to make such changes in contracts as he might see fit and fix the price of such alteration without consulting the council which had in the first place approved the original contract. Only three departments were set up in the charter, and the council could not add others without the consent of the board of control. The board, furthermore, was given the right to grade and classify positions in the classified civil service. These, with other defective or vicious financial clauses, would have provided a form of government well-shaped to the purposes of the professional spoilsman.

The chief battle-line, of course, was drawn between the Davis

charter adherents on one side and the charter commission adherents on the other. Some of the anti-Davis coalition, however, publicly advocated the defeat of all four measures. The Harris and Friebolin proposals were practically forgotten in the struggle. It seemed to the writer that two fundamental lines of cleavage were discoverable in the contest. The one was personal and political—Davis against Maschke (and Hopkins incidentally); a struggle to wrest the city and county leadership from the latter. Dissatisfaction among some of the lower ranks of workers against the leaders of the Republican organization might have been an encouragement to Davis. It is to be remembered that about three years ago a charter election was held on the single proposal of abolishing the P. R. form of election, the Republican and Democratic machines leading the attack. It occurred in the summer time, when a light vote was both anticipated and realized. What looked to the party men as an easy victory developed into a defeat, largely through the listless attitude of some of the chief organization leaders. There must have been a considerable feeling, too, among deserving party workers that places at the City Hall had not been so numerous under the Hopkins administration as they should have been. The combination of a chief executive interested primarily in administration rather than jobbery with a frame of government which made irregular and questionable practices more difficult and a council upon whose work the light of day was constantly turned through the constant criticism of the small but able group of Independents, was distasteful to the humbler but more numerous body of party workers. The organization had swung too far to the Right.

The second fundamental cleavage was on economic lines: labor against the middle, professional, and capitalistic classes. Naturally, no such issue was made openly, but innuendos and accusations used so long and so successfully in other large cities to rouse the class spirit were employed by Mr. Davis and his lieutenants. Mr. Davis professed to have the one aim of "restoring the government to the people." Telling thrusts were made at Mr. Hopkins' supposed connections with the Chamber of Commerce, the American Plan Association, the Citizens' League, and various "high-brow" associations. The administration's encouragement of the production of grand opera at the Public Auditorium and its acquisition of a city airport were ridiculed. Unquestionably the unemployment situation furnished the major portion of the steam and passion of the campaign. As

usual, it was easy to fasten blame for slack employment on the administration. The Cleveland Federation of Labor took a decisive stand for the Davis proposals—in fact furnished the backbone of the Davis organization. A complete city-wide precinct and ward organization was set up in all but a few of the higher-class residential sections. Harry McLaughlin, president of the Cleveland Federation of Labor, announced that a victory in this campaign was essential to the continued existence of the unions; and under their leadership the largest registration for any municipal election in years (over 180,000) took place.

That politics indeed makes strange bed-fellows was strikingly shown in this election. The Republican and Democratic organizations, the Independents, and the Citizens' League were found consorting together. Organization men to whom but a short time before the manager plan and P. R. had been anathema found themselves defending those very things; though not at all whole-heartedly, and not at all in properly selected parts of the city. Professor Hatton might well have taken this occasion to smile. On the Davis side, besides the labor element, were found a group of the younger Democratic leaders, and "snowballing" groups from the Republican organization. The result was the defeat of all four charter proposals, the Davis cause losing by a scant 6,000 out of 150,000.

Since the scare of this narrow victory there have been evidences to the outside observer that the Republican organization and the city administration are coming to terms with various of the elements of the late opposition. Mr. Davis has for the time stopped his public attacks on the administration, although the pledge to his workers immediately after the election to re-submit the amendment in the spring has been kept. Mr. McLaughlin, of the local federation of labor, announced that he personally would take no part in the charter fight this spring. Some time later, in February, he triumphantly announced that the city services were now practically "unionized," a statement promptly denied by Mr. Hopkins. The new Davis petitions have been accepted and the charter amendment, somewhat altered in content, will go on the ballots at the time of the presidential primary. It was announced officially at the time of their filing that 20,000 of the signatures were forged or otherwise fraudulent, and that 21,000 were good, or about five thousand more than were legally required to place the charter amendment on the ballot. Of the 21,000 "good" signatures, however, nearly 7,000 appear to be

by unregistered, and therefore illegal, voters. An investigation of these irregularities is now being conducted by a committee of the council. Mr. Maschke has remained silent, and it is believed that he will take no active or open part in the charter fight. Interest in the matter seems to have collapsed. At the time of writing (March 13) there is very little newspaper discussion. Attention is centered on the Willis-Hoover fight in the preferential primary. The Maschke organization has pledged its aid to Mr. Hoover. It would seem to be the obvious thing for Mr. Willis to attempt to build up a rival organization in Cleveland; but at the present time it does not appear that he will be able to make use of the old Davis organization—a fortunate circumstance for the city manager cause.

It is the writer's belief that Mr. Hopkins' administration has given very general satisfaction to the business, professional, and middle classes of the city; that even labor's grievance against Mr. Hopkins was based chiefly on such disagreements as naturally might arise between employer and employee, namely, over terms of contracts, hours of labor, wages, and overtime; and that the attack on the charter was primarily only one incident in organized labor's tactics in the course of collective bargaining. There are real achievements to the credit of Mr. Hopkins: the stationary tax rate; the paying off of accumulated indebtedness from preceding administrations; the opening, widening, and paving of new thoroughfares and the extensive repaving of old ones; the excellent handling of the traffic situation; and the general efficiency of the various city services. To this might be added his arousing of the people to the importance of long-time planning for the city's future, particularly in the matters of lake-front development and river straightening.

The same day which carried the news of the defeat of the Davis charter brought the announcement of a concerted movement on the part of various civic organizations of Greater Cleveland in the direction of some sort of federated government for the metropolitan area. Cleveland is almost encircled by suburbs, to the number of fifty or more, ranging in size from villages of a few hundred inhabitants to Lakewood with 75,000 and Cleveland Heights with 50,000. A high percentage of the leaders in the civic life of the community live in the suburbs. A list of those most active in the late campaign would show a high percentage unable to vote because of their residence outside the city limits. It is an unsound situation which, if not changed, may extort its toll of bad government in the not distant

future. A Committee of Four Hundred has been appointed by Mayor Marshall to study the situation and bring forward plans for a measure of common government for the whole area.

The net result of the late attack on the charter seems to have been, for the moment, a loss to the city manager cause. The logic of the situation demands more concessions to the party workers and to city labor. What changes in this respect have been made is not certain at this time. Mr. Hopkins' tenure has never rested on an Independent majority, but on a bi-partisan coalition. His administration has necessarily been colored by this fact. In his first two councils, there was a bi-partisan majority of twenty-one, and a minority of four Independents. While theoretically in opposition, all but one of the Independents had voted for Mr. Hopkins' election as manager, and their constant and vigilant criticism of the conduct of his administration had proved in the long run to be constructive and a source of strength to his position. In the late contest, the Independents practically gave up all thought of scrutiny of or opposition to the offering of candidates by the bi-partisan combination; the saving of the charter was a far more important goal. The result was the almost complete wiping out of the opposition in the council. Professor Hatton's withdrawal because of his removal from the city, Mr. Witt's refusal to stand for reëlection, and the defeat of Miss Marie Wing left only Mr. Kennedy, the least aggressive of the four Independents. The city has thereby been deprived of one of the most valuable features of the past four years: an Opposition which contributed greatly to the efficiency of the government and the people's interest in it.

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Toledo. [At the present time, a charter commission pledged to the adoption of the city manager form of government is functioning in Toledo. The circumstances leading up to the election of this commission are described as follows by Professor H. T. Shenefield.]

In the latter part of December, 1926, the mayor of Toledo discharged the service director, Mr. William T. Jackson, a very popular man and an able administrator. Such action might have been expected, as there had all along been a lack of coöperation between the mayor and the service director. The discharged director had a large following among the business men of the city, in whose eyes he immediately became a martyr to the cause of good government. The

press of the city joined in the denunciation of the mayor and the political machine.

When the outburst had subsided somewhat, cooler heads assumed control of the situation, directing the movement more to an ultimate solution of the dilemma of good government than to mere abuse and vilification. The press, expecially the *Toledo Blade* and the *Toledo News Bee*, began to talk about the city manager plan. The chamber of commerce was foremost in the agitation for, and later in the study of, the plan. It might be remarked here that agitation for the city manager system was not new in Toledo; on the contrary, the plan had been advocated by the League of Women Voters for several years. During a period of a month or so, the chamber of commerce brought in such men as A. R. Hatton, Leonard D. White, and Lent D. Upson, all of whom talked on the city manager plan. As a practical effect of this wave of enthusiasm, the chamber of commerce appointed a special committee to study the subject; and when its report, favoring the adoption of the city manager plan with election of the council at large by the Hare system of proportional representation, was submitted, the chamber adopted the report by a vote of 29 to 1.

Shortly after, on January 25, an Independent City Manager Association was formed at the suggestion of the special committee. The organizing conference was open to all, and, as might have been expected, the Republican organization packed the meeting. A well prepared program for the election of officers, adoption of rules, and ways and means of securing a new charter was carried out over the votes and protests of the Independents, who were outnumbered approximately two to one. It was decided that inasmuch as the use of the initiative would be costly and would necessitate an extra election, the association should petition the council to pass such legislation as was needed in order to place the question on the ballot at the election of November, 1927. The council promptly passed the needed legislation, on February 2, providing for a vote on two proposals: (1) changing the charter, (2) election of a charter commission. Nomination was to be by petition of two per cent of those voting at the last preceding general municipal election, such petitions to be filed sixty days before the election, and candidates to signify on the ballot whether they opposed or favored the city manager plan. All candidates, in fact, were in favor of the city manager.

The main result of this unexpected turn of events was disheartening to the Independents, who were somewhat disorganized by their

defeat. At the last minute, however, only a few days before the deadline for filing petitions of candidacy, the Citizens' City Manager League was formed to put an independent slate of charter commission candidates in the field. Thirteen candidates were nominated on this ticket, and three of the "organization" slate were endorsed. Eight out of these thirteen were elected, besides the three endorsed by both factions.

Here, however, the mayoral campaign entered to crowd the city manager movement out of the headlines and to resurrect "more important issues." As a result of the August primaries,[2] Jackson, ex-service director, led Guitteau, his successor as service director, by 1,300 votes in the largest primary vote in the history of the city. It was a most bitterly fought campaign. Personalities were resorted to freely and a great deal of interest was aroused, with the result that the registration was exceptionally high for a municipal election (88,593), being exceeded only by the registration for the 1924 presidential election. Although the mayoral election attracted the major portion of the public interest, it was only a small part of the elector's interest at the polls. The elector had to mark six ballots. More specifically, 24 officials were to be chosen from 57 candidates; two bond issues were to be voted upon; two referenda were to be considered; besides the choosing of a charter commission and the question of deciding whether a new charter should be framed.

When the ballots were counted it was found that Jackson had been elected with a plurality of 6,654 votes over the nearest candidate, Guitteau; yet he was a minority mayor, with 33,672 votes out of a total mayoral vote of 80,530. The most significant result, so far as we are concerned here, was the vote on the question of changing the charter and the election of the charter commission. The question of changing the charter attracted but a small portion of the vote —forty-one per cent, to be exact. Within this forty-one per cent, the vote was little less than two to one in favor of change. It is evident that a considerable number of voters skipped this question, by mistake or negligence, because the vote for charter commissioners ran as high as 38,379. As has been mentioned, the independent slate of candidates for the charter commission was successful, inasmuch as eleven out

[2] Toledo has a non-partisan primary, but through some inadvertence the charter does not prevent independent candidacies at the final election. In the final mayoral election of 1927 there were three candidates.

of the fifteen charter commissioners were either sponsored or endorsed by this organization.

With regard to practical political experience, the charter commission includes in its membership two members from the charter commission of 1914, a former vice-mayor, a former director of finance and service director, a former secretary of the local bureau of municipal research, a member of the commission which directs the bureau, a former city health commissioner, a former member of the state legislature, a present member of the state legislature, and the president of the chamber of commerce. The occupational distribution of the group is such as to make it quite representative. Organized labor is ably represented by two members. The rest may be classified as follows: one federal judge, two lawyers, one social worker, one manufacturer, two doctors, one realtor, one printer, one sales manager, and two merchants. The commission is thus, it may be seen, not inexperienced in considering governmental questions, and is at the same time a fairly representative body. It has chosen Judge Killits as chairman, which position he held in the charter commission of 1914. The commission has already adopted some of the best administrative provisions of the old charter. A small council of nine is favored, but the commission proved to be sharply divided on the question of P. R. Several speakers on both sides of the subject have been heard by the commission, and final decision is being held in abeyance. There is every indication that the charter will be submitted to the electorate at the November election.

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Newport. Considerable publicity was given to the fact that the people of Newport, Rhode Island, adopted a city manager charter in 1926 by a vote of four to one. As a matter of fact, this manager charter has never gone into effect. The referendum on it was only advisory. On the first of January, 1927, an ordinary mayor and council government, provided by the so-called Lawton act passed by the preceding legislature, went into effect. The new council refused to submit the manager charter to the 1927 legislature. A citizens' committee undertook to do so, but the charter was smothered in the corporations committee of the Senate.

2. METROPOLITAN GOVERNMENT

Pittsburgh. The 1927 legislature of Pennsylvania passed for the second time the constitutional amendment previously described

in these notes providing for municipal consolidation in Allegheny county.[3] The amendment goes to the people of the state at the fall election of 1928. The legislature also continued the commission to study municipal consolidation in Allegheny county and instructed it to carry on an investigation and report a draft of a charter for consideration by the 1929 session of the legislature, provided, of course, the constitutional amendment is ratified by the people.

Cleveland. Professor Shoup's note above refers briefly to the creation of a committee of four hundred to bring forward plans for some sort of federated government for the metropolitan area of Cleveland. Impetus was given to this movement by the sudden realization of many suburban residents that they had a great stake in Cleveland, but could do little or nothing to determine the character of its government. The near passage of the Davis amendment awakened them to a sense of their present helplessness. The committee appointed by Mayor Marshall organized by electing Paul Howland, president of the Cleveland Bar Association, and a former congressman, as chairman, and C. K. Matson, of the Cleveland Foundation, as secretary. An executive committee of twenty-five was formed to carry on a study of the question. One of its sub-committees, known as the "fact finding committee," has been conducting a very interesting series of public hearings in which officials of the county, and of the various units of government within the county, have been called upon to testify.

Montreal. [The provincial government of Quebec has created a commission, popularly known as the Borough Commission, to study the question of the governmental situation on the island of Montreal. Mr. Frederick Wright, of the Montreal Municipal Service Bureau, contributes the following note on the situation there.]

The metropolitan district of Montreal during the last decade has grown so rapidly in population and area that its administration is fast becoming a serious problem. On the one hand, there are fourteen suburban municipalities, each a civic entity in itself, and on the other hand there is the city of Montreal proper, with its thirty-five wards, some of which are larger in population and area than any of the independent municipalities. This means that Greater Montreal has fifteen separate governing bodies to carry on its local administration, with no coördination, other than that of finance, between one authority and another.

[3] See this *Review*, XXI, 365 (May, 1925).

Financial coördination was brought about in 1921, when the Montreal Metropolitan Commission was established on the suggestion of a number of the well-governed communities adjoining Montreal that would not countenance annexation but were willing to bear their share of the burden of helping certain other adjoining municipalities out of their financial difficulties. While the primary purpose of the new commission was to administer the finances of the delinquent municipalities, it was also given the power of supervision and control over the finances of all the member municipalities, other than the city of Montreal. At the same time, it was given authority to borrow on the credit of the whole district, and to make loans to the municipal units under its jurisdiction.

In a word, the Metropolitan Commission, composed of fifteen members directly representing the councils of the municipalities comprising its membership, is an experiment in the borough system in so far as municipal finances are concerned. That the experiment has proved a success is evidenced in the annual reports of the commission, which show conclusively not only that the delinquent municipalities have been placed on the road to financial stability, but that all the units have profited by the fact that in addition to a continual checking up of their financial administration they have been enabled to borrow on more advantageous terms, because of the larger credit behind the borrowing, than would be possible on their own credit.

Whether the Metropolitan Commission will be the basis on which a complete borough system will be developed, or whether it will be eliminated and entirely new machinery set up for the administration of Greater Montreal, is the question now agitating the minds of those interested in the development of the district. One thing is very certain. The present situation is an impossible one. The city of Montreal itself cannot carry on much longer under its present system of administration, for the reason that it has not the confidence of the electorate. This was evidenced in a recent referendum when the proprietors refused the administration's request to be allowed to spend the sum of $30,000,000 in improvements. That the improvements are necessary, no one will deny; but such is the lack of confidence in the capacity of the administration to handle the expenditure efficiently that the proprietors chose the lesser of two evils by either voting against the request or not voting at all.

This not only has brought the city administration to a sense of its impotency in the matter of major improvements but has brought the

possibilities of the "borough system" into the limelight of public discussion. The leading newspapers have expressed themselves as being in favor of the principle, as have many of the leading citizens; and the provincial government has appointed a special commission to study the system as a mode of government for the metropolitan district.

Although still in the preliminary state, the Borough Commission has already recommended that the Metropolitan Commission be given more powers, including the supervision of the finances of all the municipalities on the island of Montreal—about twice the number of the present members of the Metropolitan Commission. This recommendation has been partially put into effect by the provincial legislature in giving more powers to the metropolitan body, although supervision over the finances of the outlying municipalities was not granted to it.

This is at least an indication that in Montreal the tendency is toward the borough principle of government. Many obstacles, however, must be overcome before there can be a general acceptance of the system, one of which is the fear among the French-speaking citizens that under it they would lose their present dominant position. Such fear is, of course, unfounded, but nevertheless it is there, and must be overcome before any real headway can be made. Then there are the demagogues who see in the adoption of the borough system the end of their sinister influence. They probably have real cause for fear.

It comes down to this. The borough system, so far as Greater Montreal is concerned, is under favorable consideration, but much intensive education must be carried on before it is accepted. The fact that there is an impasse regarding the physical development of the city is in its favor, for the electors realize that many millions of dollars must be spent in improvements if Montreal is to keep in the vanguard of progress; and, being doubtful of the present system of administration, they are ready to consider the adoption of a system which in its financial aspects has worked out so well in the Montreal Metropolitan Commission. If the Commission had the same control over the finances of the city of Montreal that it has over the finances of its other member municipalities, the vote on the referendum already mentioned would have been very different. But then there would have been no need for a referendum, which is a most unsatisfactory method of controlling public expenditures.

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3. MUNICIPAL ELECTIONS

Several elections of extraordinary interest have taken place during the past year. Thompson and Dever waged a titanic battle for the mayoralty of Chicago. This election attracted nation-wide interest and was so fully treated in the press, and subsequently in periodical literature, that there seems no necessity of offering further details here. In Philadelphia, the Vare candidate, Harry A. Mackey, defeated the independent candidate, J. Hampton Moore, in a hard-fought election last November. While the independents were defeated, they succeeded in seriously threatening the machine's supremacy, and there is more hope than for a long time of a genuine civic awakening in Philadelphia.

Detroit experienced its hottest municipal campaign in many years. Detroit employs the non-partisan primary. At the primary on October 11, John C. Lodge, president of the council, who had been drafted to candidacy by a petiton signed by 50,000 voters, secured an absolute majority over the six other candidates. His nearest rival, Mayor John W. Smith, was left to contest the final election with him. In the ensuing campaign, as in the primary, Lodge made no speeches and gave out no statements. Smith, perhaps in desperation, attempted to make capital of Lodge's dry support by taking a strong stand against prohibition and practically promising an open town. The issues of the campaign became, however, inextricably confused. Religious, racial, moral, and other questions undoubtedly played some part in the result. After all, however, the main question was good government vs. mediocre politicalized administration. For nine years Mr. Lodge had been president of the council and a steady influence for the best type of city government. In spite of the political ballyhoo raised by his opponent and the spectacularly vigorous canvass which he made, the people elected Mr. Lodge by a majority of twelve thousand. The prospects of the Lodge administration are discussed below in a note contributed by Mr. W. P. Lovett. of the Citizens' League of Detroit.

In November Cincinnati had its second election by proportional representation under the manager charter. Friends of the charter won a complete victory, as is described in a note by Professor Lowrie below. The Citizens' Republican Committee of Rochester, New York, was victorious in the primary election held September 20 last, thus insuring that the Rochester charter would be carried out by persons friendly to the manager system. After the election of November the

council selected Mr. S. B. Storey, director of the Rochester Bureau of Municipal Research and one of the leading advocates of the charter, as city manager. In San Francisco, Mayor James Rolph, Jr., who has been continuously mayor since 1911, was elected for another term of four years. This is believed to be a record for large cities in this country.

It would be impossible to discover in these elections any general tendency. Ballyhoo won in Chicago and lost in Detroit. The machine was repudiated in Toledo and accepted in Philadelphia. In Cleveland the regular machines of both parties supported the manager plan against the assault of a popular aspirant for leadership. The ways of democracy are as hard to fathom as ever.

Cincinnati. The charter group was again successful in the November elections in Cincinnati and retained the six seats won in the first contest, while the Republican organization lost one seat to an Independent candidate. Seven of the nine councilmen were reëlected to office. The victory of the charter ticket was due in large measure to public approval of the unusual accomplishments of the last two years, and in part to the political sagacity of the leaders throughout the series of campaigns. The election of 1924, which resulted in the adoption of the council-manager form of government with a council chosen by proportional representation, and the election of two years ago which "kept the charter in the hands of its friends," have been described in the pages of this journal.[4] It was appreciated that the real test of the reform movement would come at the election of 1927 when the charter party would be on the defensive. This test has now been met.

Cincinnati was fortunate in the character of the men who composed the first council under the new system. They employed a manager with administrative ability, a charm of manner which quickly ingratiated him with the people, and a personality which complemented the personal qualities of the councilmen themselves. These men elected by the people did not refuse leadership, and the mayor especially has become a dominant force in the community. The combination of Mayor Seasongood and Manager Sherrill is an unusual one. The former is a leader of reform; the latter, the man to carry out the policies which the representatives determine upon. Consequently, the manager himself never became a campaign issue. Both groups pledged him support. As the mayor said of him, "He personifies the people's own desire for good government."

[4] Vol. XX, p. 367 (May, 1926).

The campaigns of 1924, 1925, and 1927 were contests between the old Republican organization, in almost undisputed control for a generation, and a fusion of Republican insurgents and Democrats. After a victory won under such circumstances, the question of patronage was likely to prove troublesome. The Democratic element was anxious to replace the Republican workers with men from their own party. But they had succeeded in electing only two of the nine councilmen, and the other members were rather indifferent to their claims. The charter group was not built upon a patronage basis. Some changes in officials were made, but for the most part only those employees who continued active in partisan politics in violation of the state civil service law were discharged. The experienced men who were retained contributed to the efficiency of the administration, and the old organization was weakened, since it was no longer able to use public employees as ward and precinct workers, or to exact the customary contributions of two and one-half per cent of their salaries. Toward the close of the first term a personnel classification study was completed and installed. Civil service has been honestly administered for two years. It is becoming efficient.

The record of the first two years of the city-manager system was one of unusual achievement. Streets which had become almost impassable were rebuilt; property fast falling into destruction has undergone rehabilitation; the saving in contracts has been astonishing. Practically all bonds submitted for approval have been voted, since the people believe the money will be spent wisely. The old feeling of pessimism has yielded to a more hopeful outlook. Sensing the strength of the administration, the Republican organization listened attentively to proposals for an armistice which would continue the old council without change for another two-year period. But neither group was quite willing to accept such a solution. The leaders of the old party were fearful that if no ticket were in the field their organization might slip from their grasp, and the charter's friends hesitated to sponsor candidates whom they had fought bitterly, and who were identified with policies that they had been trying to overthrow. The latter renominated five of the six men whom they had elected to the first council, and re-elected all five, as well as one new member.

The Republican party submitted the names of the three members they had elected two years before, included two councilmen already renominated by the charter organization, and refurbished their ticket with three "hill-top" candidates—a bit of window dressing

which they had neglected in the first campaign. But the strength of the party was centered on the professional politicians, and they gave little aid to others on their slate. The attack on the administration was along two lines: first, that the improvements were material ones, made possible only because funds previously denied were now available; and second, that the strong two-party system needed for the national government required party allegiance even in municipal elections. The former argument carried little weight in view of the well-known extravagance and mal-administration of the engineering and other public works departments under former administrations. The latter argument caused some strong party men to pause. Yet at this same election a congressman was elected to fill a vacancy. The Republican organization defeated the Democratic candidate for Congress decisively, even though their major attention was centered on the municipal campaign. There has been no gain to the Democrats at the expense of the Republican group, but rather the people in these two elections have pledged their allegiance to the charter group dedicated to better local government.

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Detroit. According to unbiassed observers, Mayor John C. Lodge, of Detroit, has justified since he was installed on January 10 the forecast that his two-year administration, to which he was elected last November, will mark the beginning of what should be another decade of creditable government in a metropolitan city. The first decade began in 1918 with adoption, by a heavy majority, of the present strong-mayor, small-council plan in the charter then submitted to popular vote. Under this plan the city met with remarkable success the problems of finance, expansion, and improvements incident to a doubling of population. In the past three years, however, there was a real threat of a capture of local control by gentlemen more interested in playing politics than in promoting business-like and economical administration. There had appeared in numerous elections a civic indifference which came to a head last year. The issue was joined with fair clearness, on November 8, in the contest for mayor between the incumbent, John W. Smith, and Mr. Lodge. Though the margin of victory for the Lodge forces was only 12,000 votes, the nature of the campaign was such as to satisfy all concerned with the reality of the popular decision.

Having spent most of his life in Detroit, and having given the past twenty years to public service, Mr. Lodge flatly declined to make any personal campaign. He was "drafted" with petitions for his nomination, signed by 50,000 voters. He did not make a single speech nor issue a single statement during the contest. Interested citizens, and a part of the press, gave publicity to the opinion that Mr. Lodge's public record was entirely sufficient, as a platform and as a campaign technique. His course thus far has been one of straight non-political insistence on doing the hard job without deviation from strict business principles. He has convinced the people that the campaign roorbacks, charging extremism on the ticklish question of prohibition enforcement and on the religious issue, were only political claptrap.

Mr. Lodge served continuously, after the new charter went into effect, as the acknowledged leader of the council of nine, elected at large. He is familiar with the city government in all its ramifications, and knows the temper both of officials and of the people of the city. As an adroit diplomat, he knows how to get done things necessary or desirable, without flourishes of publicity, and he is equally skillful in quietly side-tracking the programs of anti-community manipulators. Knowing the facts, the system, and the personnel, he hews to the line without fear or favor.

Attacking first the problems of finance, he called into conference the council members regarding the annual city budget, the costly widening of many streets, etc., and thus got agreement at the start. He announced that all department heads would function with absolute freedom from politics, and would also be held responsible for results. He favors a fair degree of press publicity—after things are done, not before. He has even opened up the question of a new deal in the civil service; a movement has been initiated to make radical improvements, by charter amendment or otherwise, so as to give the city a better guarantee of freedom from political intrusions into the departments. His handling of financial matters has indicated a combination of courage and conservatism.

One result has been serious study of the city manager plan as a future possibility. An increasing number of citizens are recognizing the hazard of political election, rather than scientific selection, of the chief executive. The question is not being pushed by propagandist methods, but is being debated in a way to get the facts before the people, as those facts are known to be available in the city-manager

cities. It is reasoned that Mr. Lodge, in the manner of his election and in the temper of his administration, is himself something of a city manager, and that the present advantages could be assured for the future by some simple changes in the charter.

Enjoying an election system that is remarkably free from dishonesty and inaccuracy, it is said that Detroit, under present conditions, is close to being "a pure democracy." Most of its municipal troubles are of the incidental sort—incidental to the factor of personnel rather than to system: the people in office, and the people who put them into office. Now comes the question from some anxious ones as to whether the noiseless efficiency of the present régime may not lull the public again into lazy indifference, neglect of the ballot, and various other evils. Provided his health continues good, the majority hope or believe that the city may anticipate a rëelection of Mayor Lodge in 1929, and thus enjoy at least a quadrennium of peaceful and effective government.

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FOREIGN GOVERNMENTS AND POLITICS

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The English Cabinet Secretariat. No one of the many changes in the English constitution during the World War is more interesting than the establishment of the cabinet secretariat. The device came into being under the stress of war-time conditions, as a result of the complexity of the problems to be dealt with, and of the need for centralizing the activities of the government. Its retention after many other features of the war administration have proved only transitory is an example of the permanence that war-time institutions sometimes acquire.

Before the war no minutes of cabinet meetings were kept. The only record of cabinet decisions was contained in the letter which the prime minister wrote with his own hand to the sovereign, reporting only those decisions which he thought should be brought to the sovereign's attention. A copy of each letter was kept for reference by the prime minister.[1] Since it was considered bad form to take notes in cabinet meetings, individual members had to depend upon memory when proceeding to apply cabinet decisions in their own departments.[2] Such procedure was unbusinesslike, and was one of the factors that rendered the cabinet system cumbrous and inefficient in the conduct of a great war. The War Cabinet needed an agency to prepare information for its consideration, to keep an accurate record of the many and vitally important decisions it made, and to transmit those decisions to the departments charged with ultimately carrying them into effect. Under such circumstances, the cabinet secretariat came into existence.

The immediate antecedent of the cabinet secretariat was the secretariat of the War Committee of the Asquith coalition (1915-1916),[3] which in turn developed from the secretariat of the Committee of Imperial Defense.[4] In 1895 a national defense committee of the

[1] Mr. Asquith, 155 H. C. Deb. 5 s. 228.

[2] "Cabinet Etiquette" (ed.), *Spectator*, CXXXVII, p. 4 (July 3, 1926). See also letters in the *Times* by Mr. Geoffrey Drage (June 26, 1922), Mr. G. E. Buckle, the biographer of Lord Beaconsfield (June 16, 1922), and Mr. Arthur Ponsonby, who was for a time Sir Henry Campbell-Bannerman's private secretary (July 3, 1922), discussing the point as to whether or not ministers were often left in doubt concerning cabinet decisions.

[3] Mr. Lloyd George, 88 H. C. Deb. 5 s. 1343.

[4] Mr. Asquith, 155 H. C. Deb. 5 s. 226–231.

cabinet was set up, with the prime minister as chairman. In 1904, after the Boer War, it was reorganized by the Balfour administration as the Committee of Imperial Defense, and at that time consisted of the prime minister, five other members of the government, and four eminent military and naval experts. From its inception the Committee of Imperial Defense had a secretariat which was frankly designed to aid the committee in its main purpose, namely, to provide the machinery by means of which military and naval policy might be continuous and based upon the best advice. The secretariat was custodian of important military and naval secrets, and was in charge of the administrative work when the committee was not in session. With the outbreak of the World War, the activities of the Committee of Imperial Defense increased, and its membership tended to enlarge.[5]

In May, 1915, the Liberal cabinet which had been in charge of affairs during the first year of the war was enlarged into a coalition, representing eighty-eight per cent of the House of Commons. On November 2, 1915, Mr. Asquith (now Lord Oxford and Asquith), who continued as prime minister for over a year, announced that since the beginning of the war there had been a large number of cabinet committees, one of which, in charge of the actual conduct of the war, tended to be permanent. That committee was to be more formally organized, and to consist of the five or six most important cabinet members. This war committee was to have a secretariat, the chief duty of which was to record its decisions for transmission to the cabinet, so that the cabinet could retain supreme control over policy.

In December, 1916, the Asquith coalition was succeeded by the War Cabinet, under the leadership of Mr. Lloyd George. In his first speech after becoming prime minister, Mr. Lloyd George explained that the old War Committee had been amalgamated with the new cabinet, and that its secretariat would be continued as an adjunct of the cabinet as a whole. "The old War Committee," he said, "had what the cabinet had not, it had secretaries to keep a complete record of all decisions." He went on to say that the staff of the secretariat would be enlarged, and that the cabinet would be in close contact with all departments as never before.[6] The Committee of Imperial Defense did not share the fate of the War Committee. It continued to function, but its secretariat was combined with that of the War Cabinet.[7]

[5] John A. Fairlie, *British War Administration* (New York, 1919), pp. 44–46.
[6] 88 H. C. Deb. 5 s. 1343.

While the secretariat of the War Committee was the immediate predecessor of the cabinet secretariat, it is doubtless true that it was mainly the experience of the secretariat of the Committee of Imperial Defense that was utilized in its development. The report of the War Cabinet for 1917 says, "The War Cabinet secretariat is built up on the nucleus of the secretariat for the Committee of Imperial Defense."[8] Mr. Lloyd George made a similar statement in the House of Commons, on June 13, 1922.[9] The career of Lieut.-Col. Sir Maurice Hankey, the present secretary to the cabinet, also shows the immediate influence of the secretariat of the Committee of Imperial Defense upon the cabinet secretariat. In 1908 Sir Maurice was appointed assistant secretary to the Committee of Imperial Defense; in 1912 he became secretary. In December, 1916, when the cabinet secretariat was organized, he was placed at its head, while still remaining secretary to the Committee of Imperial Defense. Since June 1, 1923, he has also been clerk of the Privy Council.

The history of the cabinet secretariat falls into three stages. The first extends from the earliest appearance of the organization in December, 1916, to June, 1922, when severe criticism arose in the House of Commons and the press. The second is the period of criticism, extending from June to October, 1922. The third began with the reorganization by Mr. Bonar Law, when he became prime minister in October, 1922, and extends to the present day.

During its first year, the secretariat consisted of Sir Maurice Hankey and ten assistant secretaries, with an office establishment at No. 2 Whitehall Gardens.[10] A clerical staff and messengers brought the total of its employees to over fifty. Its duties are summed up in the report of the War Cabinet for 1917 as follows: (1) to record the proceedings of the War Cabinet; (2) to transmit decisions; (3) to prepare agenda papers; to arrange for the attendance of ministers and other persons concerned; and to procure and circulate documents

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[7] *Times*, February 14, 1917; *War Cabinet: Report for the Year 1917* (Cmd. 9005, London, 1918), p. 3.

[8] *Ibid.*

[9] 155 H. C. Deb. 5 s. 266. In his new treatise, *The Mechanism of the Modern State* (Oxford, 1927), II, p. 84, Sir John Marriott finds the origin of the cabinet secretariat in the secretariat of the Committee of Imperial Defense, without noting any intervening stages by which the service was introduced into the cabinet.

[10] *War Cabinet: Report for the Year 1917*, p. 3.

required for discussion; (4) to attend to correspondence; (5) to keep minutes of meetings, of which a complete file was sent to the ministers most closely concerned with the conduct of the war; also to other departments when concerned; and (6) to prepare weekly reports by arrangement with the secretaries of state for foreign affairs, India, and the colonies on the matters with which they were concerned. These reports were sent to all ministers.[11]

The report of the War Cabinet for 1918 contains the following statement: "The secretariat continued to perform the functions allotted to it as described in the previous report. In addition, it supplied the secretariat for the standing committees . . . . , for the Imperial War Cabinet, and for all or nearly all of the committees set up by the War Cabinet for special enquiries."[12]

The "khaki election" of December, 1918, returned the Lloyd George coalition to power with an overwhelming majority. There was a widespread belief that the war cabinet system would be abandoned, but when the new government was officially announced on January 10, 1919, it was clear that the war-time organization was to be continued during the peace negotiations.[13] As the year 1919 advanced, opposition to the War Cabinet became more outspoken, reaching a climax on October 23, when the government suffered a severe defeat in the House of Commons on the Alien Restriction Bill. As a result, the War Cabinet was abolished, and the membership of the cabinet was enlarged to eighteen. A few days later (October 29, 1919), Mr. Bonar Law, answering a question for the prime minister in the House of Commons, stated that the reorganized coalition would continue the cabinet secretariat.[14] Thus its services were available in connection with the series of international conferences which began early in 1919, and its staff was drawn upon to provide secretarial services for all of them.

In the early years of its existence the secretariat was accepted practically without comment as a war measure, and doubtless the absence of an organized Opposition saved it from much scrutiny. In fact, it was mentioned in Parliament only a few times. On February 13, 1917, Mr. Law was called upon to assure the House of Commons

[11] *War Cabinet: Report for the Year 1917, ibid.*

[12] *War Cabinet: Report for the Year 1918* (Cmd. 325, London, 1919), p. 6.

[13] 112 H. C. Deb. 5 s., p. vii.

[14] *Times*, October 30, 1919; also (November 13, 1919) 121 H. C. Deb. 5 s. 500.

that the secretariat was not authorized to make cabinet minutes available to the press.[15] A few days later it was declared in the Commons that the War Cabinet had a secretariat with a staff of thirty-six. Two members wanted to discuss the matter, but it was out of order.[16] On March 8, 1917, during a debate on supply, several members undertook to criticize the whole organization of the government. The qualifications of the members of the War Cabinet were discussed freely. During the course of the debate the cabinet secretariat was mentioned, and attention was called to the size of its staff and the luxuriousness of its offices. It was a minor point, however, and the supply was passed without change.[17] On June 18, 1917, Mr. Law denied that it was the duty of the secretaries to the cabinet to offer expert military and naval advice.[18] The question in this case was raised by the appointment of four army and navy officers to the secretariat's staff. Without doubt they were expert advisers, but from the first they were employed on the Committee of Imperial Defense.[19] On November 13, 1919, just after the abandonment of the war cabinet system, Mr. Gideon Murray, a coalition Liberal, tried to force Mr. Lloyd George into a statement of the functions of the cabinet secretariat, but was reprimanded by the Speaker.[20]

Aside from such casual comment, the secretariat received no criticism until the summer of 1922, when for a while it occupied considerable space in the press and was the subject of a debate in the House of Commons on June 13.[21] Sir Henry Craik, writing in the *Nineteenth*

[15] *Times*, February 14, 1917; see also (July 4, 1922) 156 H. C. Deb. 5 s. 187.
[16] *Times*, February 20, 1917.
[17] 91 H. C. Deb. 5 s. 602–222.
[18] *Times*, June 19, 1917.
[19] *Estimates for Civil Services* (Sessional Papers, 1923, vol. XVI), p. 24 note.
[20] 121 H. C. Deb. 5 s. 500.
[21] During the first period of its existence the secretariat received the endorsement of two important parliamentary committees. The Machinery of Government Committee, of which Viscount Haldane was chairman, appointed in July, 1917, and reporting in December, 1918, made the following recommendation: "We think there is one feature in the procedure of the War Cabinet which may well assume a permanent form, namely, the appointment of a secretary to the cabinet charged with the duty of collecting and putting into shape its agenda, of providing the information and material necessary for its deliberations, and of drawing up records of the results for communication to the departments concerned." *Ministry of Reconstruction: Report of the Machinery of Government Committee* (Cmd. 9230, London, 1918), p. 6. The Committee on National Expenditure, better known as the Geddes Committee, from the name of its chair-

Century, suggested that the office of secretary to the cabinet might develop like the secretaryships of state, for the holders of those offices were originally only recorders and transmitters, but soon became the heads of the most important departments of the government.[22] The apparent reason for the establishment of the cabinet secretariat, said the editor of the *Spectator*, "though it is not a good one, is that Mr. Lloyd George, when he took the conduct of foreign policy practically into his own hands . . . . found the secretariat a great convenience. Without it he would never have been able to hold that long series of conferences in various parts of Europe in exactly the dictatorial way in which he handled them."[23] The *Times* found the whole system exemplified by the cabinet secretariat thoroughly vicious, and recommended that the representatives of the nation make a beginning in economy by abolishing it.[24]

The secretariat was the subject of a debate in the House of Commons, lasting about four hours, on June 13, 1922. This was the first time that it had ever undergone a complete discussion on the floor of the House.[25] The occasion was a motion by Sir Donald Maclean in committee of the whole upon supply to reduce by £100 the vote asked for the cabinet secretariat. Both Liberals and Unionists assailed the secretariat, and it was defended by Sir Austen Chamberlain and

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man, Sir Eric Geddes, reporting in 1922, referred to the cabinet secretariat as follows: "We recognize that the amount of work devolving upon this office is still very heavy, and the Treasury, who have carefully reviewed the whole staff from time to time, are satisfied that it is not in excess of what is required. In these circumstances we make no recommendations." *Third Interim Report of the Committee on National Expenditure* (Cmd. 1589, London, 1922), p. 58. The following classification of the staff of the cabinet secretariat, contained in the Geddes report, is interesting as showing its composition when criticism arose: administrative, 11; clerical, 47; typists, 22; messengers, 20; charwomen, 14; total, 114.

[22] "The Cabinet Secretariat," *Nineteenth Century and After*, XCI, pp. 913–923 (June, 1922). The suggestion that the cabinet secretariat might go the way of the secretaries of state is interesting, but can hardly be taken seriously. At any rate, it has since been shown that the secretaries of state were from the first something more than "recorders and transmitters," as Sir Henry Craik thought. See Florence M. Grier Evans, *The Principal Secretary of State* (Manchester, 1923).

[23] *Spectator*, CXXVIII, p. 708 (June 10, 1922).

[24] June 13, 1922.

[25] Sir Donald Maclean (Liberal), 155 H. C. Deb. 5 s. 213; Sir Henry Craik (Coalition Unionist), *ibid.*, 243; Mr. Lloyd George, *ibid.*, 263.

Mr. Lloyd George. The arguments brought forth against it may be summarized as follows: (1) it impedes parliamentary control over the ministry;[26] (2) it tends to exalt the powers of the prime minister;[27] (3) it performs work which ought to be done by ordinary departments —especially the Foreign Office, as in the case of the League of Nations work;[28] (4) it is not necessary in peace time;[29] (5) it is too expensive;[30] (6) it will develop into a new department that will usurp the powers of the ministry;[31] (7) the preparation of agenda is too important a task to entrust to secretaries;[32] (8) evils will result from taking minutes of individual opinions expressed by cabinet members; from allowing access to minutes of cabinet meetings; and from making the minutes a continuous record.[33]

Some of these arguments (referring to the preceding numbers) were answered by the Government spokesmen as follows: (1) The secretariat does not impede Parliament's control over ministers. Does the existence of a staff of civil servants under any minister modify his responsibility?[34] Furthermore, the only instance cited was that of reparations, for which the Chancellor of the Exchequer is clearly responsible.[35] (3) The secretariat does not cause confusion in foreign affairs, for all the cases cited, upon examination, prove to have been the work of other departments, or the product of unavoidable circumstances.[36] As for the League of Nations work, the cabinet secretariat has proved to be the best department for the League to correspond with, for two reasons:[37] first, "the League of Nations intimately concerns the Dominions, and the Dominions prefer to correspond with the Cabinet office,"[38] and, second, the League of Nations

[26] Sir Donald Maclean; Lieut.-Col. Guinness (Coalition Unionist), *ibid.*, 251–254; Sir John Marriott (Coalition Unionist), *ibid.*, 255–263.

[27] Sir Donald Maclean, Lieut.-Col. Guiness.

[28] Sir Donald Maclean; Lord Eustace Percy (Unionist), *ibid.*, 232–239; Sir John Marriott.

[29] Mr. Asquith, *ibid.*, 226–231.

[30] Mr. Isaac Foot (Liberal), *ibid.*, 239–241; Mr. Adamson (Labor), *ibid.*, 255–256.

[31] Sir Henry Craik, *ibid.*, 241–245.

[32] Lord Robert Cecil (Unionist), *ibid.*, 245–251.

[33] Sir Henry Craik, Sir John Marriott.

[34] Sir Austen Chamberlain, *ibid.*, 224.

[35] Mr. Lloyd George, *ibid.*, 271–272.

[36] *Ibid.*, 267–271.

[36] Sir Austen Chamberlain, *ibid.*, 224.

[38] See Edwin Mousley, "The Cabinet Secretariat and Empire Government," *Fortnightly Review*, CXIX, pp. 523–526 (March, 1923). It is recognized that the

is not strictly a Foreign Office concern; it relates to many other departments. (5) The argument of economy was answered by reference to the Geddes report.[39] (8) In regard to the minutes of cabinet meetings, it was stated that absolutely no record of individual opinions was made; that all ministers, but only ministers, had access to the minutes; that a continuous record of cabinet meetings would at least tend to stabilize policy.[40]

Besides attempting to refute the criticisms of the secretariat, the Government speakers advanced certain positive arguments. It was maintained that the cabinet needed such services because of the tremendous increase in business, which is illustrated by the number of cabinet meetings during and after the war, as compared with former years. It was maintained also that the cabinet secretariat was a businesslike development, in line with modern ideas. "No one who has had experience of both systems," said Sir Austen Chamberlain, "would for one moment think of going back to the old unbusinesslike system."[41] A similar opinion was expressed by Mr. Lloyd George.[42] At any rate, the government carried the day. Sir Donald Maclean's motion of censure was lost by a vote of 205 to 111,[43] and the original question was agreed to without division.[44]

Comment in the press upon the debate of June 13, 1922, was not very favorable to the government. "We have seldom heard a less convincing argument," said the *Times*, "for a grave constitutional

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cabinet secretariat performed a real service in effecting continuity in Empire government, and it seemed to the writer that the curtailment of the functions of the secretariat by Mr. Law in the latter part of 1922 would have an undesirable effect on relations with the Dominions.

[39] See note 21 above.

[40] Mr. Lloyd George, 155 H. C. Deb. 5 s. 263–76.

[41] *Ibid.*, 219.

[42] *Ibid.*, 276.

[43] *Ibid.*, 275. The division is analyzed in the *Liberal Magazine* (XXX, p. 470, July, 1922) as follows:

	For	*Against*
Liberals	19	1
Coalition Liberals	5	58
Unionists	33	140
Labor	52	0
Others	4	7
Total	113	206

[44] 155 H. C. Deb. 5 s. 287.

departure involving the expenditure of a considerable sum of public money."[45] The *Manchester Guardian* was convinced "that more remained to be revealed than was apparent from the official explanations."[46] The *Spectator* considered the answers made by Mr. Lloyd George very unsatisfactory. "The real reason for its [the secretariat's] continuance," said the *Spectator*, "is that Mr. Lloyd George is in love with bureaucracy."[47] The *Liberal Magazine* was, of course, unconvinced by the Government arguments. Its editor could not reconcile Mr. Lloyd George's remarks to the effect that the cabinet secretariat "is a very important departure," and that "they are a recording department."[48] The editors of both the *Saturday Review* and the London *Nation* could see the secretariat only as a part of an invidious scheme to subvert the English constitution.[49] Of the organs mentioned, the *Times*, the *Spectator*, the *Saturday Review*, and the *Nation* were unequivocal in demanding the total abolition of the secretariat; the *Liberal Magazine* and the *Manchester Guardian* saw good in the new development in cabinet government, but wanted to reduce the secretariat in size, cost, and functions.

An interesting series of letters in the *Times* kept alive the comment upon the secretariat for some time after the debate of June 13, 1922. Lord Gladstone, ten days later, defied "anyone to give from the speeches of Mr. Chamberlain and Mr. Lloyd George a clear, connected account of what the secretariat is and does."[50] The next day the *Times* editorially endorsed Lord Gladstone's finding that the retention of the secretariat was unjustified, and encouraged the discussion that was going on in its columns. A few days later Mr. Geoffrey Drage, who announced himself as a civil servant, stated the case for the retention of the secretariat.[51] His letter is interesting because it states an argument for the secretariat that none of its political champions ever dared to emphasize, namely, that it would make for continuity of policy. Later letters by Mr. Arthur Ponsonby and Mr. J. G. Swift MacNeill continued the argument in opposition.[52]

[45] June 14, 1922.

[46] June 16, 1922. Quoted in Sait and Barrows, *British Politics in Transition* (Yonkers-on-Hudson, 1925), p. 48.

[47] CXXVIII, p. 740 (June 17, 1922).

[48] XXX, pp. 418–420 (June, 1922).

[49] *Saturday Review*, CXXXIII, p. 624 (June 17, 1922); London *Nation*, XXXVII, p. 397 (June 17, 1922).

[50] *Times*, June 23, 1922.

[51] *Ibid.*, June 26, 1922.

[52] *Ibid.*, July 3, 1922; Sept. 26, 1922; Oct. 5, 1922.

It is this series of letters in the *Times* that first directed attention to a distinction that ought to be made between the cabinet secretariat and the prime minister's private secretariat. That the two bodies were confused in the public mind seems evident. Mr. Asquith was accused of a misuse of terms in a political speech made in October, 1922.[53] Sir John Marriott carefully warns his readers against a confusion of the two terms.[54] The report of the war cabinet for 1917 contains the following statement: "In addition to the war cabinet secretariat there was created a small prime minister's secretariat to assist the prime minister in discharge of the heavy responsibilities which fall upon him under the war cabinet system."[55] The second report added that the cabinet secretariat worked in close association with the prime minister's secretariat.[56] By 1922 the personal secretariat had a staff of twenty, at a cost of £9,318.[57] Prime ministers before the war, of course, had a private secretariat; but never, it appears, with a staff of over four, nor at a cost of over £2,000.[58]

In spite of the criticism received in the debate of June 13, 1922, and in the press in the months following, the cabinet secretariat was not modified in any way as long as the coalition remained in power. This sets up a fair presumption that much that had been said about the secretariat contributing to the power of the prime minister was true. Mr. Lloyd George had, indeed, attained a degree of power never enjoyed by any of his predecessors, and there can be no doubt that his success was due in no small measure to the efficient service of the cabinet secretariat headed by the able Sir Maurice Hankey.[59] The secretariat could be justified during the war, and tolerated during the series of international conferences which followed; but by the summer of 1922 it had outlived, in its swollen state, its period of

[53] *Times*, Oct. 12, 1922 (letter).

[54] *English Political Institutions* (3rd ed., Oxford, 1925), p. xxv, and *The Mechanism of the Modern State* (Oxford, 1927), II, p. 85. See also a letter in the *Times*, October 7, 1922.

[55] *War Cabinet: Report for the Year 1917*, p. 3.

[56] *Ibid.*, for 1918, p. 6.

[57] Mr. Baldwin, 164 H. C. Deb. 5 s. 5.

[58] *Ibid.;* see also a letter by Mr. Arthur Ponsonby, *Times*, July 3, 1922.

[59] Sir Maurice Hankey was given a grant of £25,000 in 1919 for his war services as secretary to the Committee of Imperial Defense and the War Cabinet. For Mr. Lloyd George's tribute, see 119 H. C. Deb. 5 s. 419. In 1921 his salary was increased from £2,000 to £3,000. For tributes to his services at that time, see 138 H. C. Deb. 5 s. 1903 *seq.*

usefulness. By that time it had come to be the symbol of that dictatorship to which the nation had enthusiastically submitted during the war, but which was wholly odious when peace had been concluded. Its retention in the face of criticism can be attributed only to Mr. Lloyd George's tenacity in holding on to power, and his reluctance to surrender any contributory source.

In October, 1922, however, the coalition was brought to a sudden end by the secession of the Conservatives under the leadership of Mr. Law and Mr. Baldwin. The new prime minister, Mr. Law, immediately announced a return to normal party government, and his modest idea of his office prompted a speedy change in the cabinet secretariat. Speaking on October 22, 1922, he announced that thenceforth the secretariat would be subordinated to the Treasury, the traditional central department of government. The League of Nations correspondence was to be transferred to the Foreign Office, and he promised that if there should be any international conference during his term of office the secretarial work would be handled, not by the cabinet secretariat, but by the Foreign Office. "The first thing which I did on assuming this office," said Mr. Law, speaking in London on November 2, "was to make a change in the cabinet secretariat."[60]

The secretariat employed a total of 102 persons when Mr. Law's government took office. By the end of November, 1922, the staff had been decreased to sixty-three, which, as was stated in the House of Commons, meant an annual saving of £20,000. On May 14, 1923, the Chancellor of the Exchequer (Mr. Baldwin) stated that the organization had a total staff of thirty-eight, at an annual cost of £15,750.[61] At the same time, he announced that the prime minister's secretariat had been reduced in the last quarter of 1922 to thirteen, costing £6,000, and in 1923 to eleven, costing £5,283. Since that date the cabinet secretariat has undergone little change in size or expense.[62]

The cabinet secretariat must now be regarded as a permanent part of the constitutional machinery. In the curtailed form in which it has existed since the fall of 1922, it is less open to criticism and offers smaller opportunity for manipulation by an ambitious prime minister. Its subordination to the Treasury was an exceedingly wise concession to tradition. In the Treasury its usefulness cannot be

[60] *Times*, November 3, 1922.

[61] 164 H. C. Deb. 5 s. 5.

[62] *Civil Service Estimates* (Sessional Papers, 1923, vol. XVI), p. 24; *ibid.*, 1924, vol. XVI, p. 18; *ibid.*, 1924–25, vol. XIX, p. 24.

lessened, and there it fits into the recognized administrative machinery of the country. Though one of the most disliked of Mr. Lloyd George's administrative reforms, the cabinet secretariat may prove to be the most permanent and the most useful.

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The Japanese General Election of 1928. On February 20, the long expected parliamentary election was held.[1] As the first expression of national opinion under the manhood suffrage law, its result was awaited with unusual interest. Dissolution of the House of Representatives had been demanded by the liberal press ever since the passage of the election law of 1925, but the old parties had been reluctant to appeal to the electorate. In the fifty-second session of the Diet, the Kenseikai cabinet reaped a harvest of unpopularity by an arrangement with the Seiyukai and Seiyuhonto which prevented a no-confidence vote. When the Seiyukai came into office in April, 1927, it was apparent that any ministry which postponed dissolution would forfeit popular esteem; and in any case the four-year term automatically required a general election before May, 1928. The Kenseikai and the Seiyuhonto made preparation for the coming election by amalgamating into a united opposition under the name of the Rikken Minseito. The Seiyukai prepared by dismissing the governors in twenty-four of the forty-seven prefectures and filling their places with adherents who would promote the party's interests at the polls.

The dissolution came at the opening of the 54th session of the Diet. The cabinet lacked a majority, and the Opposition planned to introduce a vote of no-confidence criticising the Government for a harsh foreign policy that injured Japanese interests in China and created distrust of Japan in Europe, and for an extravagant financial policy that failed to improve the economic depression attendant upon the bank failures of last spring.[2] On January 21, Premier Tanaka made

[1] Part of the material used in this note was obtained through the courtesy of Mr. Teijiro Tamura, the Japanese consul at Chicago. Sources from the *Kwampo* and Japanese newspapers were translated by Mr. Sterling Takeuchi and Mr. Michinari Fujita.

[2] Compare the speech by Yuko Hamaguchi, the leader of the Minseito, before a meeting of his party. *Tokyo Asahi*, Jan. 21, 1928, p. 1; *Japan Chronicle*, Jan. 26, 1928, p. 102. The party strength in the lower house was reported as follows: Minseito, 220; Seiyukai, 188; Shinsei Club, 25; Jitsugyo Doshikai, 8;

the usual opening address for the Government, followed by a second statement in his capacity as foreign minister, and a third statement by Chuzo Mitsuchi, the finance minister.[3] Thereupon, without permitting the Minseito to introduce their vote of no-confidence or to debate it, the secretary of the cabinet hurried to the rostrum carrying with great respect the emperor's rescript wrapped in blue furoshiki. The president of the House bowed, unrolled the scroll, and read the decree dissolving the lower chamber. The Seiyukai thus tricked the Minseito out of a parliamentary victory, but laid themselves open to the charge of deliberately evading a fair debate.[4]

Due, perhaps, to the appearance of the two-year old proletarian parties, each with elaborate programs, the platforms of the major parties were unusually distinct, and for once disproved the quip of Ozaki Yukio that the only difference between the two parties is that one is a robber and the other a thief. The Seiyukai platform was characteristic of a party whose strength lay in the country districts, while the Minseito made its appeal largely to urban populations. Among the specific promises of the Seiyukai were proposals for decentralization by the extension of the powers of the prefectural governors and assemblies, transfer of the land taxes to the local governments, development of agriculture by subsidies to tenant farmers, and promotion of manufactures by grants to promising industries.[5] The latter policy, known as the "industrialization program," was branded by the Minseito as dangerous inflation. The Minseito platform called for improvement in the means for coöperation between capital and labor, support of all public education by the national treasury, retrenchment of finances, removal of the gold embargo, and government regulation of public utilities. As opposed to the two major parties, the Jitsugyo Doshikai, or Business-men's party, demanded complete abandonment of governmental interference in industry.[6] All the bourgeois parties not only issued pamphlets but ran paid advertisements in the press expounding their platforms.[7]

Independents, 18; vacant seats, 5; total, 464. *Osaka Mainichi*, English edition, Jan. 20, 1928, p. 1.

[3] *Kwampo gogai* (Imperial Gazette, extra edition), Jan. 22, 1928, pp. 10–14. Cf. *Tokyo Asahi*, Jan. 22, 1928, p. 1; *Japan Chronicle*, Jan. 26, 1928, p. 99.

[4] The independent *Tokyo Nichi Nichi Shimbun*, on Jan. 22, declared: "The procedure was distinctly unparliamentary and in contravention of fair play."

[5] *Jiji Shimpo*, Jan. 22, 1928, p. 3.

[6] *Jiji Shimpo*, Jan. 22, 1928, p. 3; *Japan Advertiser*, Jan. 23, 1928, p. 1.

[7] Cf. *Tokyo Asahi*, Feb. 18, 1928, p. 2.

The proletarian parties profited by the extensive campaign of education which Professor Abe and his associates inaugurated over two years ago. All of their platforms condemned the old parties as political shams and proposed various social and political reforms, including woman suffrage, abolition of all laws restricting labor unions, unemployment relief, minimum wage laws, employers' liability, protection of tenant farmers, and nationalization of certain industries.[8] The best organized of these parties is the Shakai Minshūto, or Social Democratic party, led by Isoo Abe, the well known sociologist of Waseda University, and Suzuki Bunji, president of the Japanese Federation of Labor. This party draws largely from the intelligentsia and represents the right wing of the radical group. Closely allied to the Social Democrats is the Nippon Nominto, or Japanese Farmers' party. A middle-course radical party is the Nippon Ronoto, or Japanese Labor-Farmer party, while the extreme left is occupied by the Rodo Nominto, or Labor-Farmer party, which is avowedly communistic.[9]

One of the significant features of the election was the agreement among the proletarian parties to coöperate in placing candidates in the field. In Japan, election districts send from three to five members to the House, and voters may write the same number of names on their ballots. In all, 967 candidates offered themselves for the 466 seats. The Seiyukai and the Minseito had 348 candidates each, the independents 140, and the proletarian parties 57.[10] In the prefectural elections in September, 1927, the small showing of the proletarian parties had been largely attributed to their lack of coöperation.[11] Accordingly, even before dissolution, the proletarian leaders

[8] Cf. *Tokyo Asahi*, Jan. 22, 1928, p. 2. For the past two years, the Shakai Minshūto have published a series of pamphlets selling for ten sen (five cents) apiece, discussing in dignified language the political and social problems of Japan and the reforms proposed by the Social Democrats. The *Shakai Minshūto Koryo Kaisepsu*, from the pen of Professor Abe, is the best known of these pamphlets.

[9] For the platforms of these parties see *Tokyo Asahi*, Jan. 22 and 24, 1928, p. 2; *Japan Advertiser*, Jan. 23, 1928, p. 3. The party name, Nippon or Nihon Nominto, is commonly shortened to Nichinoto; Nihon Ronoto, to Nichiroto; and Rodo Nominto, to Ronoto.

[10] The Jitsugyo Doshikai supported 30 candidates, and the Kakushin Club 17. Among the proletarian parties, the Shakai Minshūto offered 18; the Nippon Nominto, 11; the Nippon Ronoto, 14; and the Rodo Nominto, 12. *Jiji Shimpo*, Feb. 14, 1928, p. 2; *Osaka Mainichi*, Feb. 16, 1928, p. 1.

[11] In the elections for the prefectural assemblies in September, 1927, the pro-

reached an agreement in the matter of keeping labor candidates from running against each other.[12] Among the bourgeois parties, the Minseito showed better finesse than the Seiyukai in arranging its candidates so as to catch the greatest share of the independent vote while not dividing the party's vote by supporting too many candidates. This fact partly accounts for the close run that the Minseito gave the Seiyukai despite the fact that the latter had all the advantage that comes from the control of the Home Department at such a time.

Another outstanding feature of the election was the heavy hand which the election law lays upon political activity and which under the administration of an intransigent home minister contributes to the spirit of suspicion and distrust. When granting manhood suffrage in 1925, the Diet, as if moved by a reaction against popular control, enacted one of the most complicated codes regarding corrupt practices to be found the world over. Besides the usual severe penalties imposed for false registration, bribery, and fraudulent candidacy, candidates must deposit two thousand yen which is forfeited if they do not secure a considerable vote; house-to-house canvassing and solicitation by telephone are prohibited; expenditures are limited to about 12,000 yen per candidate; no candidate may employ more than fifty paid workers, entertain voters at dinner or the theatre, hire carriages or automobiles to carry voters to the polls, or make exaggerated statements concerning himself in posters or newspaper advertisements.[13] Even posters in more than two colors may be prohibited. With such minute regulations, it is not surprising that in the present election it was charged that spies on both sides were employed to report all infractions of the corrupt practices law.[14]

Under the electoral law both the Home and Justice departments exercise considerable influence over elections, the former by its control of the prefectural governors and the police, and the latter through

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letarian parties won 28 out of 1,485 seats, and polled 255,500 votes out of 6,296,114 votes cast. *Tokyo Asahi*, Oct. 18, 1927, p. 2; *Japan Advertiser*, Oct. 19, 1927, p. 3.

[12] These proletarian party agreements did not hold in every case, notably in the fifth constituency of Tokyo. Cf. *Japan Advertiser*, Jan. 31, 1928, p. 1.

[13] *Genko Horei Shuran* (1925), vol. I, bk. ii, sec. 3.

[14] *Osaka Mainichi*, Jan. 31, 1928, p. 1; *Tokyo Nichi Nichi Shimbun*, Feb. 1, 1928, p. 2; *Japan Advertiser*, Jan. 29, 1928, p. 1; *Japan Chronicle*, Feb. 2, 1928, p. 137.

its authority to prosecute election frauds. The campaign of 1928 had not progressed far before all opposition parties had cause for complaint against the subversive policy of Dr. Kisaburo Suzuki, the forceful official who heads the Home Department. The conference of the prefectural governors summoned to Tokyo on January 24 was branded as a plot to instruct local officers in the ways of injuring the Opposition at the polls.[15] The Minseito headquarters in Tokyo were raided and the Government seized two hundred thousand pamphlets discussing the Siberian army funds which General Tanaka is charged with having misappropriated. Police interference became the order of the day, and many proletarian meetings were broken up by policemen with rattling sabres. It was reported that the Suzuki faction in the cabinet wished to carry interference so far as to oust Yoshizo Hara, the minister of justice, for refusing to harass Opposition candidates with unwarranted prosecutions.[16] The newspapers of Tokyo joined in a protest to the Government, while the Rodo Nominto filed a suit in court against the home minister charging him with systematic suppression of party meetings.[17]

Another conspicuous feature of the campaign was the strenuous effort of the Government to bring out the indifferent voter. The prefectural elections in the autumn, held in 39 of the 47 prefectures, had drawn a comparatively light vote. According to the report of the police bureau of the Home Department, 2,318,247 qualified voters out of a total of 9,152,638, or 26.5 per cent, failed to go to the polls.[18] This situation raised discussion as to the advisability of adopting compulsory voting, and led the Government to make valiant efforts to bring out the stay-at-home voter for the parliamentary election. Among other devices, the Home Department issued a quantity of illustrated posters explaining the election law and depicting the prosperity that would surely follow intelligent voting.[19] The vote on February 20 indicated a wide public interest in the election. Of the 12,534,360 qualified voters, 81 per cent went to the polls.[20] This

[15] *Jiji Shimpo*, Jan. 26, 1928, p. 2; *Tokyo Asahi*, Jan. 25, 1928, p. 2; *Tokyo Hochi Shimbun*, Jan. 26, 1928, p. 2.

[16] *Japan Advertiser*, Feb. 17, 1928, p. 1.

[17] *Jiji Shimpo*, Feb. 12, 1928, p. 3; *Tokyo Asahi*, Feb. 16, 1928, p. 1.

[18] *Tokyo Asahi*, Oct. 18, 1927, p. 2. *Japan Advertiser*, Oct. 19, 1927, p. 1.

[19] Copies of these posters are found in the *Tokyo Asahi*, Feb. 8, 1928, p. 2, and *Japan Advertiser*, Feb. 8, 1928, p. 3.

[20] Cablegram, dated Feb. 24, from the intelligence bureau of the Foreign Office to the Japanese Embassy in Washington, D. C.

figure does not compare favorably with previous elections under the restricted suffrage. In the election of 1908, nearly 86 per cent of the 1,582,000 qualified electors cast their ballots, while in the election of 1924, which overthrew the Kiyoura cabinet, over 91 per cent of the voters participated.[21] Nevertheless, the Japanese percentage of 1928 surpasses the figures for recent elections in Great Britain and America. The British general elections of 1922, 1923, and 1924 brought out respectively 75.4, 74.1, and 80.6 per cent of the voters; while the last presidential election in the United States resulted in a vote of only 51.66 per cent of the qualified electorate.[22]

As an expression of popular opinion, the election struck an awkward division between the two major parties. The Seiyukai secured only 221 seats, whereas 234 are necessary for a majority of the House. The Minseito won 214 seats, the Jitsugyo Doshikai only four, and the Kakushin Club only three.[23] The proletarian parties captured eight seats, while the independent members have sixteen.[24] The

[21] *Japan Year Book, 1927* (ed. Y. Takenobu), p. 90.

[22] *Constitutional Year Book* (London, 1927), p. 272. In the United States, under the census of 1920, there were 56,371,027 citizens above twenty-one years of age, and in the election of 1924 only 29,022,261 of them voted. Cf. *U. S. Statistical Abstract*, 1926, pp. 18, 156.

[23] *Jiji Shimpo*, Feb. 25, 1928, p. 2. These figures are the same as announced to the Emperor on February 24 by Premier Tanaka. The Minseito, however, claimed 217 seats, and conceded an equal number to the Seiyukai. *Tokyo Asahi*, Feb. 25, 1928, p. 2. The discrepancy is due to the fact that each party counts upon the support of certain independent members. On April 4, statements filed with the secretariat of the House of Representatives indicated that the Seiyukai held 217 seats; the Minseito, 216; the Jitsugyo Doshikai, 4; the Kakushin Club, 3; the proletarian parties, 8; independents, 17; and one vacancy; total 466. *Japanese American News* (San Francisco), April 4, 1928, p. 1. An exact analysis of party strength is not possible until the Diet meets. According to the announcement of the Home Department the popular vote was as follows: Seiyukai, 4,274,858, and 237,851 for affiliated independents, making 45.7 per cent of the total; Minseito, 4,201,219, and 74,748 for affiliated independents, or 43.4 per cent; Jitsugyo Doshikai, 163,333, or 1.6 per cent; Kakushin Club, 81,336, or 0.8 per cent; Shakai Minshuto, 120,039, or 1.2 per cent; Nippon Nominto, 36,491, or 0.4 per cent; Nippon Ronoto, 93,400, or 0.9 per cent; Rodo Nominto, 188,141, or 1.9 per cent; Chiho Musanto, a local proletarian party, 46,766, or 0.5 per cent; independents, 353,565, or 3.6 per cent. Total vote, 9,862,744. *Jiji Shimpo*, Feb. 25, 1928, p. 3.

[24] The proletarian seats are held as follows: Shakai Minshūto, 4; Nippon Ronoto, 1; Rodo Nominto, 2; and Chiho Musanto, a local proletarian party, 1. Both Professor Abe and Suzuki Bunji won seats, the one in Tokyo, the other in Osaka. Professor Ikuo Oyama, leader of the Rodo Nominto, was defeated in Kagawa.

Government expected, of course, to win sufficient votes from the independents to ensure a majority when the Diet met on April 20. The party in power has divers means of securing this sort of support. Nevertheless, it was obvious that even if the entire independent membership were captured, the majority would be slim, and would tend to wear down. The Government was not successful in concealing its chagrin at the result of the election, but the burst of indignation following certain indiscreet remarks of Dr. Suzuki concerning the lack of loyalty to the Emperor in democratic government warned the Tanaka cabinet against any resort to super-government in case the ministry's majority should disappear.[25]

Since the major parties are so nearly equal, the independents have opportunity for holding a nice balance between the two giants. This event depends upon the ability of Ozaki Yukio and Kizo Hashimoto to organize a new group including the remnants of the Kakushinto. At the date of writing (March 15) this possibility appears remote. The proletarian parties are determined never to merge their identity in any parliamentary group. Early in March the leaders of these parties held a series of meetings in Tokyo for the purpose of forming a Joint Committee for Diet Policies which would enable the four radical parties to act as a unit in the House. But complete agreement has not proved possible.[26] Thus, in more respects than one the influence of the proletarian parties is now small. The election showed that the middle-class have less confidence in the new parties than in the old, and that the farm and city workers have not been awakened to class consciousness. Nevertheless it is conceded that the proletarian parties made a good showing in the election, and that their program of political education will appeal to a widening circle of voters.

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Minority Governments in Sweden. The outstanding aspect of the Swedish parliamentary system in recent years has been a series of minority governments. Six ministries since 1920 have been able to muster only a minority support in the Riksdag.[1] This inability of any

[25] Compare *Tokyo Asahi*, Feb. 20, 1928, p. 3; also editorials in the vernacular press quoted in the *Japan Advertiser*, Feb. 22 and 23, 1928.

[26] *Tokyo Asahi*, Mar. 10, 1928, p. 2; *Jiji Shimpo*, Mar. 13 and 15, 1928, p. 2.

[1] *Kring regeringenskrisen*, *Svensk Tidskrift* (Stockholm), 1926, vol. XVI pp. 279 ff.

party to obtain a majority may be attributed in part to the fact that six parties, four major and two minor, are represented. A brief review of party history may assist in understanding the present situation.

The parliamentary reform of 1866 which abolished the four estates of the old Riksdag and established a two-chamber parliament substituted parties for classes. The organization of the two houses resulted in Conservative control of the first chamber and Agrarian (Lantmannapartiets) domination of the second.[2] The practice of voting jointly on bills rejected by one house saved the situation from becoming a deadlock. In 1888 the issue of protection temporarily split the Agrarian party, but it reunited in 1895 on a moderate protectionist platform.[3] This party represented the rural communities of the kingdom and was by nature conservative. As the cities grew in population, a party more representative of the middle class in the urban communities, the Liberals, gained strength. In 1903 the Liberals captured 102 seats in the second chamber; and, in opposition to the Conservatives, they organized their first ministry under Staaff in 1905.[4] The increasing industrialization of Sweden resulted in the emergence of a fourth party, the Social Democrats, composed largely of the laboring classes. Hjalmar Branting, editor of the party's official organ, *Socialdemokraten*, was elected to the Riksdag in 1896; but for a number of years the Social Democrats controlled only a few seats. The franchise reforms of 1911 and 1921 resulted in great accessions of strength, and since 1919 this party has been the strongest single group in both houses. It now lacks only twelve of having a majority in the lower house, thirty-five of having a majority in both houses. Its adherents hope to close this gap at the elections of next autumn.

With the reform of the electoral franchise in 1911, the Conservatives, or moderates, who up to that time had dominated the first chamber, fearing that they might lose their position, succeeded in introducing proportional representation and thus encouraging and protecting minority groups. They lost all chance of control of the second chamber in the elections of 1911, but kept a majority in the first until the elections of 1919. Since that time the membership of the upper house has been divided almost equally among the Moderates, the Liberals, and the Social Democrats.

[2] S. J. Boëthius, *Oskar II, Sveriges historia till våra dagar* (Stockholm, 1925) vol. XIII, p. 9.

[3] *Ibid.*, pp. 126, 165.

[4] *Ibid.*, p. 240.

During the early history of the Social Democratic party in the Riksdag it was closely allied with the Liberals. In 1917 the Edén ministry was formed in pursuance of a coalition between the Liberals and Social Democrats, although a few left wing socialists refused to join and constituted the Left Socialist party. The radicals again split in 1923 on the question of communism, five members in the lower and one in the upper house withdrawing to form the Communist party on the extreme left. The remaining members of the party returned to the Social Democratic fold.

The old Liberal party, the champion of the extension of the franchise, has also divided into factions. Originally the party received its inspiration and obtained its principal support from the more liberal of the intellectual classes. It was symbolized by the students' forum at Upsala, the Verdandi, founded in the eighties. Staaff, the great Liberal leader, who had himself been a member of the Verdandi, however, in 1913, appealed to the lower middle class, the "cottage" people, to the free church, and to the prohibition elements.[5] These new forces entirely swamped the intelligentsia. In the division of the old Liberal party in 1923 over the prohibition question, the larger group formed the People's party (Folkfrisinnade) and the intellectuals became the New Liberals.

Another obstacle in the way of the formation of a majority government is the reluctance on the part of the major parties since 1920 to form a coalition. Formerly it was the practice that only the prime minister represented the party in power, the other ministers being chosen from the various parties on the basis of executive ability. This was possible since legislation was molded chiefly by the regular, and occasional special, committees chosen jointly by the two chambers.[6] Of late, the British cabinet system has, however, exercised considerable influence upon Swedish parliamentary practice. An attempt was made in 1917 by the Liberals and the Social Democrats to establish a party ministry, and a coalition cabinet supported by a majority of the Riksdag was formed, which lasted for three years, preceding the era of minority ministries.

It is to be observed also that the normal system of cabinet government, in which the ministry is responsible only to the more popular chamber of the legislative body, does not obtain in Sweden. During

[5] *Kring regeringskrisen*, op. cit., p. 287.

[6] Gustav A. Aldén, *Svensk statskunskap, Medborgarens bok* (Stockholm, 1924), pp. 61–63.

the period in which the Moderates controlled the upper chamber, there seemed to be some possibility of establishing the principle of the cabinet's responsibility to the lower chamber alone. An attempt by the Liberal prime minister, Staaff, in 1906, to recognize his responsibility only to the lower house proved, however, abortive;[7] and with the new party alignments resulting from the extension of the franchise, it is now definitely established that both houses are equal in their relation to the ministry. This obviously complicates the problem of securing a majority government.

Flushed with their victory at the polls in 1919, the Social Democrats undertook to form a strictly party ministry of their own, though they did not control an actual majority in the Riksdag. The first Branting ministry was organized in June, 1920, and appealed to the country for support. This government remained in office for only six months, during which time it initiated several investigations of social and economic problems. Before retiring it sought the alliance of the Liberals, but was refused. There followed an interlude when the De Geer-Sydow ministry of government officials attempted, during the economic crisis of 1920–21, to stabilize the budget. The elections of 1921 again assured the Social Democrats of their political strength, and the second Branting ministry was formed. The government was faced with a tremendous unemployment problem in 1922–23. It submitted a bill providing for the extension of doles to workmen who had been unemployed for six months prior to the calling of a strike by their union. This proposal was severely criticised by the finance committee of the Riksdag, and was finally defeated in the first chamber, the opposition being led by C. G. Ekman, the present prime minister.[8] A crisis resulted in which the ministry was forced to resign.

The fourth minority ministry was formed from the moderate party, which numerically stood second to the Social Democrats, and was thus the strongest of the opposition parties. The new prime minister, Trygger, announced the solution of the problem of national defense as the chief plank in the ministry's platform. The government bill on this subject was, however, attacked by all of the other groups in the Riksdag, even by the Agrarians (now called Bondeförbundet), whose general attitude was distinctly conservative except when their old prejudice against a long term of compulsory military training was

[7] Boëthius, *op. cit.*, pp. 249–50.

[8] Karl Hildebrand, *Gustav V., Sveriges historia till våra dagar* (Stockholm, 1926), vol. XIV, pp. 525–26.

revived. Nothing was accomplished toward a settlement of this question during the 1924 session, and the election in the fall of that year brought no material alteration in party alignments. Recognizing its inability to secure a majority on the defense bill, the ministry resigned. The Agrarians, on their part, realizing their inability to muster a majority in the Riksdag, refused to undertake the formation of a ministry, and it was left to the Social Democrats again to assume control of the government. They had, at this time, 104 members in the lower house.

The third Branting (Social Democratic) ministry was formed in October, 1924. In the spring of 1925, the party suffered a great loss in the death of its two leaders, Branting and Thorssen. Sandler succeeded to the premiership, and with the support of Ekman of the People's party, and of the Liberals, in the committees and on the floor of the Riksdag, remained in power until June, 1926.[9] The government measure on national defense was passed, with certain amendments offered by the People's party. The political situation was peculiar. Ekman, the leader of the People's party, was recognized as the power behind the throne with respect to everything which the Social Democrats attempted. He was willing to reduce the length of military service to satisfy the pacifist element among the Swedish dissenters who constituted the nucleus of his party, but he did not favor the social insurance program nor the permanent eight-hour day which the Social Democrats sought to translate into law. It was apparent that Ekman could at any time put the Social Democrats out of power. This actually occurred, rather unexpectedly, in June, 1926, when he withdrew his support and forced the resignation of the ministry over the "Stripa question," involving the legality of a strike at the Stripa mine. The commission on unemployment had held that the strike was illegal and had directed men out of work to seek employment at the mine. The government overruled this decision, thereby reflecting the usual sensitiveness of the Social Democratic party toward all labor disputes. This action was severely criticized in the third division of the finance committee of the Riksdag, of which Ekman was chairman, and this criticism was incorporated in the report of the whole committee.[10] A heated all-day debate on the question followed. The New Liberals, through their leader, Eliel Löfgren, attempted to

[9] *Herr Ekman vid makten, Svensk Tidskrift*, 1927, vol. XVII, pp. 65 ff.

[10] *Kring regeringskrisen, op. cit.*, pp. 285 ff; Gustav Möller, *Ett fall och en uppstndelse, Tiden* (Social Democratic, Stockholm, 1926), pp. 193–206.

heal the breach between Ekman and the Social Democrats, but did not succeed. When a vote was finally taken, most of the delegates of the People's party voted against the ministry, which thereupon resigned.

The Moderates refused to undertake the formation of a ministry, since they lacked a majority, and Ekman, who had been reponsible for overthrowing the Sandler government, now accepted the call to form a cabinet. He is the first manual laborer to head a Swedish government. The leader of the People's party proposed an alliance with the Agrarians, but was rebuffed. The New Liberals were willing, however, to forget their differences with the People's party of 1923 and entered a coalition. The leader of the New Liberals, Löfgren, became the foreign minister in the new cabinet. The present ministry, a coalition of the "middle class left," as defined by its leader,[11] has thus the support of both wings of the old Liberal party. It controls, however, only 65 of the 380 members in the Riksdag, its strength being equally divided between the two chambers. Of the 150 delegates in the first chamber, the reunited Liberals have only 32; while in the second chamber they number only 33, of whom four are New Liberals and 28 adherents of the People's party.[12] It was believed in June, 1926, that, controlling such a small minority of the Riksdag, this ministry could survive only a short time, yet it has weathered the 1927 session of the Riksdag and will probably survive that of 1928. The elections for county councils in the fall of 1926 had only an indirect bearing on national politics, but as a barometer of party feeling in the country they indicated no enthusiasm for the new ministry and left the Social Democrats still in the position of the strongest single group.[13]

This Left Center coalition offered no definite program. The prohibition question was allowed to rest for the time being. The weakness of the government is indicated by the treatment given its measures on school reform and reduction of communal taxation in the 1927 Riksdag. Both bills were drastically altered in the Riksdag committees, the first through the efforts of the Moderates, and the second by the Agrarians;[14] and the government made no serious stand against

[11] *Herr Ekman vid makten*, *op. cit.*, p. 67.

[12] *Statistisk årsbok för Sverige*, 1927 (Statistiska Centralbyrån, Stockholm), Tab. 264, pp. 316–17; Tab. 266, pp. 318–19.

[13] Viking Källström, *Kring höstens val*, *Svensk Tidskrift*, 1926, vol. XVI, pp. 499 ff.

[14] *Ministären Ekman inför riksdagen*, *Svensk Tidskrift*, 1927, vol. XVII pp. 355 ff.

the modifications. The ministry has, indeed, been frequently divided against itself, even in parliamentary debate. The party press severely criticized the solution of the school question, for which the government was bound to accept responsibility, and a large portion of the free church supporters were certainly disappointed with the result.

The Ekman ministry seems satisfied to administer the government and leave legislation to the Riksdag committees, a system more in accord with the American scheme of separated powers than the English type of ministerial responsibility. Its strength lies in the support which it commands among the middle classes, in its ability as a party of the center to draw support from both right and left, in its willingness to abdicate any position of leadership with regard to a legislative program, and chiefly in the strategic position which it occupies between the two larger parties, the Moderates and the Social Democrats, which are irreconcilably opposed to each other. To this may be added the reluctance of these two larger parties at the present to attempt again a minority ministry, at least until the outcome of the fall elections of 1928 for the second chamber, because of the futility of attempting to carry their programs through the Riksdag. Instability has been generally characteristic of minority governments, six such governments having risen in Sweden in seven years. The Ekman ministry, however, has baffled observers by remaining in power for so long a time.

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Norwegian Elections of 1927 and the Labor Government. The Labor party of Norway, organized in January, 1927, as a result of a fusion of the Social Democrats with the former Labor party, made sweeping gains in the elections to the Storting in October last and established itself as the strongest party in the country. Gains were made also by the conservative Agrarian, or Farmer's, party; while the old Conservative party suffered heavy losses; and, in proportion to its strength, the losses of the Communists were even greater. The Radical, or Left, party, which has steadily lost ground since the war, experienced a further decline.

The following tables show the votes polled by the leading parties in the elections of 1927[1] and 1924,[2] and the number of their representatives in the Storting after these elections:

	Votes Polled			
Party	*1927*	*1924*	*Gain*	*Loss*
Labor	368,100	265,310[3]	102,790	—
Conservatives (Right and Liberals)	254,910	316,846	—	61,936
Radicals (Left)	172,886	182,557	—	9,671
Agrarian, or Farmers', party	148,874	131,706	17,168	—
Communists	40,061	59,401	—	19,340
Radical People's party	13,413	17,144	—	3,731

	Representatives in the Storting			
Party	*1927*	*1924*	*Gain*	*Loss*
Labor	59	32[3]	27	—
Conservatives	31	54	—	23
Radicals	30	34	—	4
Agrarians	26	22	4	—
Communists	3	6	—	3
Radical People's party	1	2	—	1

It will thus be seen that the non-socialist parties still have a considerable majority both in the country and in the Storting (total votes, 590,083 as against 408,161, and in the Storting, 88 as against 62). The gain made by the Labor party is nevertheless significant. Among the reasons assigned for the victory, besides that afforded by the fusion of two formerly competing parties, Social Democrats and Labor, we find the dissatisfaction with the Conservative Lykke ministry, caused by (a) its financial policy in reducing the salaries of state employees and also the amount spent for relief work for the unemployed, while appropriating money for the stabilization of the exchange and the aid of banks; (b) the government's stand on the prohibition question; and (c) the heavy taxes.

The rapid rise of the exchange has complicated, and in many respects retarded, the improvement of the economic condition of Norway. The export trade has suffered, and costly labor conflicts have been the direct results of the lowering of wages to meet the situation

[1] Figures for the 1927 election are based on information supplied by the press bureau of the Norwegian Foreign Office.

[2] Figures for the 1924 and earlier elections are taken from *Statistisk Aarbok for Kongeriket Norge*, 1926 og 1927 (Oslo, 1927), 161.

[3] This total represents the combined vote of the Social Democratic and old Labor parties.

arising from the recovery of the krone. The compulsory arbitration law sponsored by the Conservative government was sharply criticized by labor, and the number of unemployed was high during the last summer. It is, indeed, significant that both of the two parties that gained in the elections advocated a reduction of debt in proportion to the increased value of the currency.

Furthermore, Norwegian politics has shown in recent years a tendency to change rapidly. The Communist party polled 192,497 votes in 1921, but its vote fell to 59,327 in 1924; while the old Social Democratic party experienced a decline from 209,560 votes in 1918, when it was the strongest party in the country, to 83,572 in 1921. On the other hand, the vote of the Agrarian party has risen from 30,925 in 1918 to 148,874 in 1927. The fluctuations in the votes of the socialist parties from 1921 to 1924 were in part due to their affiliations with Moscow; and the liberation from bolshevik control was, no doubt, an important factor in the recent victory of the Labor party.

The new Storting met on January 11 last, and the Conservative Lykke ministry shortly afterwards resigned. The outgoing premier advised the king to ask Mr. Melbye, leader of the Agrarian party, to form a coalition ministry supported by the non-socialistic groups. But efforts in that direction failed because the Radical party refused to follow a leader whose party represented a class, not the nation as a whole. The king then turned to the Labor party, which declared itself willing to accept office. Consequently, on January 28 Norway acquired its first socialist ministry. The premier, Mr. Hornsrud, was a wealthy farmer of moderate views. But the left wing of the Labor party obtained a majority in the government, and its best known, and perhaps ablest, member was the minister of foreign affairs, Dr. Edward Bull, professor of history in the University of Oslo, and for years an enthusiastic admirer of the bolshevik experiments. The ministry was commonly described as "pink"; and the apprehensions aroused by the inclusion of so many extremists among its members were strengthened when the trades union congress, meeting in Oslo near the time when the university was formed, displayed strong leanings towards Moscow.

The government tried to allay popular fear by accepting, in all essentials, a budget prepared by its Conservative predecessor and disclaiming any intention to strike immediately at the existing economic order. Nevertheless the newspapers reported a brisk de-

mand for foreign securities, and the Norwegian exchange showed signs of weakening. Capital seemed ready to flee the country.

The program announced by the ministry to the Storting included cancelling of all military training for the present year, revision of the system of taxation, increased doles for the unemployed, and repeal of laws for the protection of strike-breakers and for compulsory arbitration in labor disputes. This program met with strong opposition, and on February 8 the non-socialist parties combined in defeating the government, 86 to 63. Two days later the ministers resigned, and Mr. Mowinckel, a former premier and the leader of the Radical party, undertook to form a ministry. His colleagues were chosen from his own party only, which, as has appeared above, mustered but thirty votes in the Storting. Mr. Mowinckel was therefore wholly dependent upon outside support. He is known as the astutest parliamentarian in Norway, but he has, on many occasions, deeply offended the very parties that now had the power to defeat him at their pleasure. Only fear of socialism could keep the Mowinckel ministry in office.

However, it is doubtful if the Laborites will have another chance until after the elections of three years hence. If the party succeeds in taming its bolshevik element, it is not unlikely that Norway will follow the lead of the other Scandinavian countries in establishing a fairly stable socialist government.

PAUL KNAPLUND.

University of Wisconsin.

The Administration of President Leguía of Peru. On July 4, 1928, President Augusto B. Leguía will have served thirteen years as chief executive of Peru—the last nine of them consecutively—and will still have one year of his present five-year term ahead of him. This is a remarkable record not only in Peru but in all South America. In fact, in Peru only two other presidents have served two complete terms, and those not consecutive; while Señor Leguía has the honor of being the only man who has been elected three times to the first office in the land. However, the moment one commences to take note of the various accomplishments of this diminutive dynamo of Peruvian politics, the smashing of precedents appears to be a routine matter of administrative efficiency.

Leguía was elected president in 1919, but apparently fearing that his political enemies might try to prevent him from taking office, he for-

stalled them by a *coup d'état* of his own. Less than a month after his installation, a presidential decree placed before the people a project for such a drastic reform of the constitution that it was apparent that what was really contemplated was a new constitution.

This was the more unexpected inasmuch as the constitution of 1860 had served satisfactorily as the organic law of Peru for more than half a century, and the amending process was comparatively simple. But the president's power was shown when a day later a new decree called for elections, not only to ballot upon the reform of the constitution, but also to elect senators and deputies to the Congress, and deputies to the regional legislatures which would exist only in case the president's project of constitutional reform was adopted. Further to curtail useless expenditure upon electoral machinery, it was ordered that the Congress should be elected in accordance with the ratio provided in the program of reforms rather than in accordance with the existing constitution, and that this body should then function as a national constitutional assembly to effect the reforms to be approved later by the people at the polls.

The constitutional convention thus brought into existence soon decided to discard the former constitution, and within three months it adopted a new constitution which included verbatim the nineteen reforms orginally announced in the executive decree. One of these, which makes the terms and time of election of senators and deputies coincident with those of the president, has made the legislative body even more than formerly the willing tool of the executive. On the other hand, the provision which forces the resignation of any minister upon the passage of a vote of lack of confidence in either chamber would seem to give the Congress powers equal to those in a parliamentary system in the case of a weak incumbent of the presidency. Needless to say, under President Leguía both ministers and the Congress are entirely subject to the executive.

The new constitution also increased the term of office of the president from four to five years. The provision of the earlier constitution against two successive terms was retained. But shortly before the expiration of President Leguía's first term this oversight was remedied, when Article 119, prescribing that any citizen filling the presidency might not be reëlected for the following term, was amended to read that any citizen holding the presidency might be reëlected for a single time for the following term. Before this change was made, some five candidates were being talked of as successors to President

Leguía. When, however, it became clear that he intended to succeed himself, only one candidate dared to oppose him actively—Dr. German Leguía y Martinez, a justice of the supreme court. Indeed, before the candidacy of the latter could assume serious proportions he was accused of fomenting a political revolution, arrested, and sent into exile. In the elections of 1924, the returns gave President Leguía 287,969 votes to his opponents' 155. When the writer inquired in southern Peru, where the opposition to the president was particularly strong, why so few votes were cast against him, he found that few of the voters had gone to the polls. As one elector said, "If you were against the president, your vote would not be counted; if you were for him, your vote would be counted anyway."

Once established in office, with a constitution practically as he wished it, President Leguía proceeded to put into effect his program of economic reforms. But first of all he completely crushed the opposition by seizing the various leaders of the opposition parties and forcing them to follow his cousin into exile. The two principal newspapers of Lima happened to belong to his opponents; one was seized and turned into a government organ, the other was so completely cowed that it ceased to print political articles. The ministers were made executive pages and the Congress functioned merely to ratify the government's orders. The political philosophy of the Leguía régime, as its supporters see it, is somewhat as follows. A one-party government is needed in Peru today because the people are tired of party conflicts and a policy of negation. Before political liberty can be enjoyed a people must learn to discipline itself, and a dictatorship is more popular than anarchy. With conspiracies suppressed, normality will return, and with the return of normality will come political culture. The present régime is one of evolution; it envisages a new and better Peru for tomorrow.

If remarkable economic progress in a state is ever a justification for the suppression of political liberty, the administration of President Leguía should receive a unanimous vote of confidence. He has achieved the results of a Mussolini, but without braggadoccio or bluster. In no former administration has the country made such rapid advances in trade and industry. The great mineral wealth of the land has never before been exploited on so vast a scale or so advantageously to the state. The total mineral production value for 1926 amounted to almost $100,000,000, and today Peru stands first in the world in the production of vanadium, third in the production of silver, sixth in the production of copper, and eighth in the production of petroleum.

But it is in the more difficult and less spectacular field of agriculture that the administration has accomplished the greatest feats. From Tumbez to Arica, the coastal plain is a dreary stretch of desert sand which only requires the waters from the neighboring Andes to change it into luxuriant fields of cotton and sugar. President Leguía has embarked upon a program which will accomplish this result. Already the Cañete has been tapped and acres of tall cotton may be seen in the scorching desert close to Cerro Azul. The great project for the irrigation of the Pampas del Imperial, recently completed, will open up over 17,000 acres of fertile soil almost at the doors of Lima. But these undertakings are hardly in the same category with the stupendous plan already begun for irrigating the vast Pampas de Olmos, which may ultimately bring a half million acres under cultivation in the departments of Pivra and Lambayeque. Some idea of the difficulty of this project may be obtained when it is realized that over a thousand miles of roads must be built merely to transport the necessary machinery and equipment, and another thousand miles to enable the irrigated lands to be populated and worked. A tunnel ten miles long through the Andes will divert the water of the River Huancabamba from the Atlantic to the Pacific. This project alone will cost the government about five million dollars a year. In his message to the Congress delivered July 28, 1927, President Leguía estimated that since 1919 £P 2,292,762 (over ten million dollars) had been spent on irrigation works.

The Leguía administration has also given much attention to better transportation facilities. Anyone who has travelled from Lima to Oroya, or from Mollendo to Arequipa, will readily appreciate why Peru possesses scarcely two thousand miles of railroads. The natural obstacles are such that the cost of construction is almost prohibitive. The Central Railroad, running from Callao to Huancayo, about 150 miles by air line, goes from sea level to over fifteen thousand feet, and the trip requires two days. A fast airplane might do it in an hour. From Lima to Cuzco, about 350 miles by direct line, takes six days; while from Lima to Iquitos, Peru's outpost on the Amazon, takes over a month of hard travelling. President Leguía is not only constructing railroads to remedy this situation, but is opening up motor roads to supplement them. The new concrete highway from Callao to Lima will, it is estimated, save the country almost two million dollars annually in transportation costs.

Nor has the government of Leguía limited itself to the stimulation of production and construction. Improvements and economies have been introduced in the public services. A national reserve bank has been established which has proved of vital benefit to business and credit. The post-office department, now run by the Marconi Company, for the first time in its history has changed the annual deficits into profits. A French military mission has been invited to assist in reorganizing the army, and an American mission has performed the same service for the navy. The new constitution has introduced many social and economic reforms, and a new penal code makes effective the standards of justice of the most civilized states. A recent bill before the Congress will nationalize all archaeological explorations in Peru and make the Inca temples and burying grounds the property of the state. A project to build a thousand sanitary dwellings in Lima for the poorer class of laborers, and to increase the number of schools, plazas, and playgrounds, has now been authorized. Infant mortality in Lima has fallen from 230 per 1,000, the figure of a few years ago, to 149 per 1,000 in 1927. The legislature of 1927 granted President Leguía power to penalize manufacturers found to be making exorbitant profits, by lowering the tariff on their products at his discretion; and inasmuch as the initiative undoubtedly came from the executive, it may be expected that the power will be used more effectively than is the flexible tariff provision under President Coolidge.

In a word, President Leguía has brought about a social, economic, and industrial revolution in Peru which has been so obviously beneficial that the average inhabitant of the country seems strongly inclined to forgive the chief executive for the fissures undoubtedly made in the constitutional foundation of the state.

GRAHAM H. STUART.

Stanford University.

REPORTS OF ROUND TABLE CONFERENCES

HELD IN CONNECTION WITH ANNUAL MEETING OF THE AMERICAN POLITICAL SCIENCE ASSOCIATION AT WASHINGTON, D. C., DECEMBER 28-30, 1927.

1. THE LEGISLATIVE PROCESS

This round table was developed with a view to examining the legislative process as it functions in practice rather than as it is charted in constitutional and political science treatises. For illustrative purposes, the McNary-Haugen bill was chosen. That measure, by reason of its political and economic importance, its popular interest, and the fact that its passage has been bitterly contested both within and without the Congress, was well adapted for exemplifying those phases of the legislative process that are of peculiar interest to the student of political science. Furthermore, speakers before the round table were chosen for their knowledge of the facts concerning that piece of legislation.

At the first meeting, Dr. Charles J. Brand, executive secretary of the National Fertilizer Association, presented the origin of the McNary-Haugen idea, the early consideration of it by the Department of Agriculture, and its first introduction to the Congress. Dr. Brand's experience as former head of the bureau of markets of the Department of Agriculture, and later as economic adviser to the Secretary of Agriculture, led him to the conclusion that the great measures affecting agricultural economics, such as the Meat Inspection Act, the Grain Futures Act, the Grain Standards Act, the Cotton Futures Act, and the Packers and Stockyards Act, resulted from the consideration given by various groups of agricultural and marketing interests to their own economic difficulties.

In the case of the McNary-Haugen bill, Dr. Brand pointed out that its principles were developed from the experience of Mr. George N. Peek as vice-president in charge of sales of Deere and Company, and as president of the Moline Plow Company. Loss of relative purchasing power by the farmer during the war period resulted in his inability to purchase farm implements. Enhanced purchasing power was necessary before the sales of agricultural implements concerns could be increased. Faced with this problem, Mr. Peek turned his attention to increasing the purchasing power of the farmer through marketing devices that would relieve the domestic market of the depression in prices caused by unavoidable surplus production

of agricultural commodities. The origin of the McNary-Haugen bill, therefore, illustrated Dr. Brand's conclusion that ideas for legislation are developed outside the halls of Congress and among those who are stimulated to economic invention by economic pressure.

Dr. Brand described how the McNary-Haugen idea was presented to himself and the former secretary of agriculture, Mr. Wallace, by Mr. Peek and those associated with him. The consultations with business interests, the economic analyses made by departmental and other experts, the consideration given by the President's first agricultural conference, and the many preliminary drafts of the theory were set forth. Finally were explained the presentation of the matter to Senator McNary and the political considerations which resulted in his being asked to sponsor the measure.

Mr. George N. Peek, chairman of the Executive Committee of Twenty-two of the North Central States Agricultural Conference, and president of the American Council of Agriculture, then took up the story. He explained the methods by which the farm organizations of the country, their leaders and their members, were educated in the McNary-Haugen idea. Mr. Peek's position was that in the case of great economic measures, preliminary education of that portion of the population that may be expected to be benefitted is a necessary precedent to support for congressional action. Mr. Peek showed that only a small expenditure of funds was made, and that these were not used for the hiring of speakers or promotion work or the other forms of activity which are usually associated in the public mind with a legislative lobby. He further set forth how the agricultural coöperative associations of the country were interested in the McNary-Haugen idea and described the steps by which their interest grew until they finally gave their extensive support to the measure, after it had been modified to permit the coöperatives to enter the marketing channels in competition with existing marketing agencies.

On the second day, Congressman L. J. Dickinson, of Iowa, leader of the farm bloc in the House of Representatives, presented for consideration the relation of the member of Congress to legislation. Mr. Dickinson insisted that the congressman is responsive to the interests of his constituents, in so far as he is able to ascertain them, and that the educational efforts of the farm organizations throughout the country directly resulted in corresponding support of the McNary-Haugen bill by the members of Congress representing agricultural districts. He described the parliamentary efforts whereby, despite

opposition of the leaders both of the administration and the anti-administration forces, the bill was brought to a vote in both houses of Congress. He described how in the House of Representatives the Iowa delegation divided consideration of the economic, parliamentary, and constitutional aspects of the bill among their members in order that the supporters of the measure would be able more effectively to handle opposition on the floor of the House. Mr. Dickinson further described the "mutual understandings" with various groups in the House, other than the farm bloc, resulting in the exchange of support. These understandings, as he explained them, were not formal agreements or binding obligations, but merely a realization by various interests that they must stand together if their respective measures were to receive majority support within the Congress. Mr. Peek supplemented this discussion with an explanation of how the agreement was reached in the Senate whereby the Pepper-McFadden branch banking bill and the McNary-Haugen bill were both given the opportunity of reaching a vote in the Senate without the supporters of either measure being obligated to vote for the other's proposal upon passage.

Mr. E. C. Alvord, special assistant to the Secretary of the Treasury, and former assistant counsel in the office of the Legislative Counsel, described the work of that office in connection with the technical features of legislation. The reference of the McNary-Haugen bill to the office by Senator McNary and Representative Haugen, the numerous redrafts, in pursuance of the introducers' and the committees' instructions, made in order to meet objections as they developed, the analysis of the problems involved in the administrative machinery necessary to carry out the idea, the presentation of those policies for committee selection, the development of the constitutional arguments in support of the bill, the actual framing of the language of the legislation, the work before the committees in executive session, and upon the floor of the House—these were matters which Mr. Alvord set forth for the auditors.

From this outline it will be seen that the legislative process was illustrated by tracing the progress of one legislative idea from its birth, through its early consideration with the executive branch of the government and its support by economic groups, and finally through the legislative machinery in its various parliamentary phases, constant emphasis being placed upon the member of Congress as the medium by which the interested economic groups participate in

the legislative process. Concrete statements, many of them concerning matters unpublished and confidential, made it possible for auditors to construct their own theories from facts presented rather than to be forced to listen merely to the theories of others. Questions and answers consumed perhaps more time than did the informal addresses.

On the third day Messrs. Middleton Beaman, legislative counsel of the House of Representatives, and Frederic P. Lee, legislative counsel of the Senate, illustrated in other fields of legislation the application of many of the deductions that the auditors had drawn from the discussion of the McNary-Haugen bill. The pre-congressional activity with respect to revenue legislation was set forth, with illustrations of the work, throughout the months preceding the present Congress, of the Treasury Department, the staff of the joint committee on internal revenue taxation, the Advisory Tax Council, the office of the Legislative Counsel, and economic, tax, and legal organizations of the country. Discussion was also had on the function of the lawyer, economist, and political scientist in arguing their clients' cases before committees of Congress and the materials used and the methods of presentation. The conference committee and its place in the legislative machinery was developed. The differences in the consideration of legislative measures in House and Senate were pointed out, and attempts were made to explain the factors which result in the Senate frequently being unable to give such intensive consideration to the details of legislation as is the House.

The round table was frankly experimental. The very informality of the discussion, the confidential nature of many of its aspects, and the attempt to minimize doctrines and to accentuate facts make description of it difficult. The auditors themselves served, in great measure, as directors of the discussion. While such treatment may not be as spectacular as the usual addresses, it was undertaken on the theory that the student of political science needs to be furnished with the facts with which he can formulate his own deductions, rather than to be infected with the pet enthusiasms of others.

FREDERIC P. LEE, *director.*

Washington, D. C.

2. THE DIPLOMATIC PROCESS

Professor Jesse S. Reeves opened the first session with remarks about the paucity of studies of the diplomatic process and the in-

adequacy of those which exist. He called attention particularly to the lack of any comparative study of the organization and methods employed by the foreign offices of the states of the world in the conduct of their very important business.

Mr. Wilbur J. Carr, assistant secretary of state, read a paper on "The Work of the State Department and the Foreign Service," which was a clear exposition of the functions involved and a minute description of the conduct of negotiations in treaty-making. He commented on the inadequacy of the facilities for the efficient performance of the duties imposed on the department and the foreign service.

Rear-Admiral W. L. Rodgers (retired) followed with a paper on "The Rôle of the Navy in the Foreign Relations of the United States." The thesis of this interesting essay was that law and judicial procedure have generally been futile in the settlement of international questions, that diplomacy must be relied on for the reduction of differences between nations, and that the presence of force aids in reaching a decision. Law was declared to be static; diplomacy, supported by force, progressive.

In the discussion which followed this presentation of what the chairman called "an array of controversial material," Professors Fenwick and Borchard came to the defense of law, the former denying that law is static, the latter that it is useless, which he contended was the inference from Admiral Rodgers' paper. Professor Fenwick was unwilling to accept the relevancy of the historical data offered in support of the thesis, since there was no evidence that the nature of international relations in the future would be identical with that of the past. Professor Hornbeck did not think the inference that law is useless was justified. He thought that Admiral Rodgers was simply pointing out that law is not competent to deal with controversial matters which usually cause war between states. He asked whether the diplomatic process of the present or of the future was under consideration, and, assuming the former, expressed the opinion that the state with greater force will have its way in negotiation and agreed with Admiral Rodgers that a settlement of the question would be obtained, whether or not satisfactory to all parties, or final.

Mr. Stewart, of the State Department, endorsed the remarks of Mr. Carr concerning the lack of means for doing the work of the department, giving illustrations. He referred to the need of technical knowledge and of the means of obtaining necessary statistical data. The chairman commented on the importance to the country of com-

petent persons in charge of foreign relations, emphasizing the difficulty of obtaining and of retaining expert knowledge in the Department of State, the tremendous significance that the decision of a subordinate may have, and the absence of definite responsibility for specific decisions.

At the second session the round table considered the place of publicity in the diplomatic process. Where there is an inspired or controlled press, Professor Reeves said, the policy of the government does not suffer from misrepresentation. Under the parliamentary system, government may at once be called upon to defend its policies. Under a free press system and separation of powers, the government of the United States, being exempt from immediate parliamentary criticism and check, is subject to the misrepresentation of its policy both by the press and in Congress. He did not recommend the adoption by the United States of either of the fore-mentioned institutions, but suggested that the Department of State might profit by the services of a well-trained newspaper man, skilled in the appreciation of proper and legitimate news-value, whose duty would be to determine the character and extent of departmental communications.

Mr. Henry Kittredge Norton addressed the group on "Open and Secret Diplomacy." After reviewing the merits urged for the so-called old and new diplomacies, he commented on the difficulty of reconciling the need for deliberation with the demand made by democracies for "open covenants, openly arrived at." He ventured some critical comment on the actual practice of open diplomacy and the results of such practice.

The next speaker, Mr. Roland S. Morris, called open diplomacy a phase of growing democracy. The problem, he thought, was the dissemination of information—what can the public use and what does it need to know? It is wrong to assume that the public is always interested in governmental affairs and that it can grasp the significance of all the information it is given. The people of a country are entitled to know the policy of their government, and the tendency in recent years has been for governments to make known their policies and not to adopt foreign policies and execute them in the secrecy in which they were at one time obscured. In order to obtain agreement, it is still necessary, however, that negotiations between governments be conducted behind closed doors. These negotiations should be in the hands of men in whom the public has confidence enough to be willing to give them full powers.

In the general discussion, frequent reference was made to the Geneva disarmament conference of last May as an occasion illustrating various aspects of publicity methods. For example, Mr. J. P. Baxter, 3rd, mentioned the distorted accounts as to the position of the United States given in the English newspapers during that meeting. Mrs. Laura P. Morgan expressed the opinion that the misunderstanding of the American position and the final failure of the conference to reach an agreement were due partly to the absence of adequate liaison between the American delegation and the press and to the work of self-appointed publicity agents not in sympathy with the purpose of the conference.

In response to remarks about the tendency to criticize government policy and the propriety of such criticism, Mr. Morris expressed the opinion that this revealed dissatisfaction with the general policy of the government, and that criticism is in any case certainly desirable. He asked, however, that the public recognize the difficult position of the State Department, since policy must be framed with the events, and not be hasty in its criticism.

The etiquette of the diplomatic congresses of the seventeenth and eighteenth centuries, its grave significance and its gradual decline, was the subject of the introductory remarks of Professor Reeves on the third day. The international conference which has replaced the congress, its organization and procedure, he said, have not received the attention it merits; yet the success of the conference frequently depends on the preparation made for it.

Professor W. W. Willoughby spoke at some length on "The Procedure of Diplomatic Conferences." He began with a classification of kinds of conferences, and then proceeded to describe official conferences, i.e., those attended by delegates with plenipotentiary powers. The success of such a conference depends, he stated, on two things—the desire of states to come to an agreement and the possibility of such an agreement. He then enumerated and commented upon a number of prerequisites to a successful conference, such as agreement on an agenda and the preparation of data.

Dr. James Brown Scott described in detail the procedure observed at the first Hague Conference, contrasting it with other conferences where the variation was of any significance. He agreed with Professor Willoughby upon the desirability of preparation, particularly mentioning the need for agreement upon the language to be used. He emphasized this need by pertinent illustrations. To the essentials of a suc-

cessful conference as named, he added, first, greater care in appointing competent delegates, and second, greater freedom for these delegates in negotiating. Rigid instructions often destroy the possibility of agreement.

The chairman endorsed Dr. Scott's statement concerning the need for agreement upon language. He thought it would be very fortunate if the states should adopt French as an international language. Others agreed with the need for an international language, but some expressed a preference for English, or for the language most familiar to the parties to the conference.

The subject of publicity was reopened by Mr. Norton and Miss Randolph, by asking how the faults attributed to newspapers could be eliminated. Mrs. Morgan suggested that the State Department take the newspapers into greater confidence, instructing them as to what is confidential and what not. Mr. Spykman thought that much of the difficulty is attributable to the attitude of diplomatic and foreign offices. It is a predisposition with them, he said, to keep out newspaper men from all meetings, and to make exceptions to this rule only when doing so might prove useful. Much of the bad feeling complained of develops as a result of this attitude.

H. B. CALDERWOOD, JR., *secretary.*

University of Michigan.

3. FEDERAL RELATIONS

The conduct of the round table on federal relations was consciously shaped in the light of the suggestion of the program committee that the unique facilities of Washington be utilized in introducing members of the civil service to the Association. The subject-matter of federal administrative relations was well suited to this purpose. Under the circumstances, active participation in the round table was deliberately loaded in favor of national experience and viewpoints. In order to reveal tendencies in a phase of government where administrative practice has outstripped theory, and even the literature of mere description, it seemed desirable to inject numerous and varying examples of federal coöperation, even though the price was a regrettable curtailment of questions and discussion. Altogether, the three sessions were addressed informally by fourteen persons officially engaged in thirteen different units of national administration, by the Washington representative of one of the most important associations of state officers, and in addition by the foremost academic investigator of the special

field of federal subsidies, Professor A. F. Macdonald, of the University of Pennsylvania.

So far as the resulting symposium was informed by a common viewpoint, it was the hardly concealed desire of the director to call attention approvingly to changing aspects of federalism in which his own interest has led to studies which will be published later. These changes—fragmentary, diverse, and variously motivated—can be generalized as the weaving of horizontal lines of functional union across the vertical divisions of geographical decentralization. Three phases of the tendency were dealt with in the successive sessions of the round table.

The opening meeting was given to a consideration of illustrations of state participation in the administration of national laws. Mr. O. C. Merrill, secretary of the Federal Power Commission, discussed the responsibilities left to the states under the congressional act of 1920; this he thought to be an inherently desirable policy, quite apart from the lack of facilities on the part of the Federal Power Commission. Mr. John E. Benton, general counsel of the National Association of State Utilities Commissioners, criticized some features of the transportation act of 1920 and its interpretation, especially in creating frozen areas of regulation, but—although he intimated that the state authorities would continue to urge certain statutory changes—his replies to questions indicated that in his opinion the modified agreement of 1922 between the Interstate Commerce Commission and the state commissions for coöperative hearings and the like promises to work satisfactorily. Mr. J. J. Britt, head of the legal division of the Prohibition Bureau, in the course of a pithy review of the unusual problems of federal relationship involved in prohibition enforcement, made no bones about the unfortunate effect of certain recent decisions. He pointed out that in the face of criticism of the executive order of 1926 permitting the direct deputizing of state and local officers, little use had in fact been made of it; in practice, resort is had, rather, to less formal administrative coöperation through joint raids and the like. Mr. Lloyd S. Tenny, chief of the Bureau of Agricultural Economics, focussed his description of the coöperative methods characteristic of so much of the work of this bureau on the scheme of licensing individuals as graders, whereby state personnel are virtually incorporated in the administration of such measures as the grain standards act.

Mr. W. C. Henderson, associate chief of the Bureau of the Biological Survey, dealt particularly with the practice of appointing certain of

the state game wardens as deputies in connection with the enforcement of the migratory-bird treaty act. Despite its very small staff, however, the bureau has not deputized many state officers; instead, it largely secures the state assistance indispensable to the enforcement of the national act indirectly through the adoption of the national requirements in state laws and regulations. Dr. W. F. Draper, assistant surgeon-general of the U. S. Public Health Service, explained the administrative arrangements by which the service largely delegates to the states supervision of the water supplies of interstate carriers, while preserving the leverage this power incidentally affords. The illustrations of formal and informal investiture of state and local agencies with power under acts of Congress were closed by Mr. W. S. Frisbie, head of the office of state coöperation of the Food, Drug and Insecticide Administration. Mr. Frisbie (whose remarks went over to the second session because of shortage of time) emphasized the importance of the indirect coöperation secured by the assimilation of state to national standards, but also dealt with the usefulness in some circumstances of direct state initiative in bringing actions under the national law, of the still more widely serviceable plan of commissioning state officers for the collection of samples, and with the value of having an office like his own to give special attention to the cultivation of state relations.

The second meeting was devoted to the operation of federal subsidies in the form commonly called federal aid. Professor Macdonald opened the discussion by presenting some of his findings in the course of a recent field investigation of federal aid made under the auspices of the Social Science Research Council.[1] Though critical at points, his conclusions were favorable. He summarized answers which he had gathered from state administrators in reply to three questions: (1) Has federal aid stimulated state activity? (2) Has federal aid raised state standards? (3) Has federal aid encouraged federal interference in state affairs? Of 264 state directors who replied (covering coöperation in agricultural extension, forestry, highway construction, vocational education and rehabilitation, and the maintenance of militia), 240 answered affirmatively to question 1; 181 affirmatively to question 2; whereas 245 answered question 3 negatively. Of the sixteen who

[1] The full results of Professor Macdonald's inquiry, in the course of which he visited more than half of the states of the Union and held over a thousand interviews, have since been published in his book, *Federal Aid: A Study of the American Subsidy System* (Crowell, 1928).

replied affirmatively to the last question, moreover, ten were state adjutants-general whose complaint was really against conditions beyond the control of the militia bureau. Various problems in the central supervision of federal aid were discussed in the light of experience by Miss Grace Abbott, chief of the Children's Bureau, and Messrs. Thomas H. MacDonald, chief of the Bureau of Public Roads, M. C. Wilson, of the Agricultural Extension Service, and J. G. Peters, in charge of state coöperation for the U. S. Forest Service.

The third meeting was concerned with written agreements, contracts, and compacts as instrumentalities of coöperative administration. Their use between national and state agencies was discussed by Messrs. George Otis Smith, director of the U. S. Geological Survey, and N. C. Grover, chief hydraulic engineer in charge of the water resources branch, and also by Mr. H. Goding of the Bureau of Animal Industry. Based on experience with many hundreds, even thousands, of such written agreements, their comments emphasized their view that, legally, these agreements are essentially gentlemen's understandings, but that, administratively, they have weight. Agreements among states—interstate compacts—were involved in the interesting review of federal relations in the utilization of water resources presented by Mr. Elwood Mead, U. S. commissioner of reclamation. He indicated a preference for a more national treatment of river basins than constitutional construction at the moment would be likely to permit, and he revealed some skepticism (speaking in the light of the Colorado River compact) regarding the possibilities inherent in interstate treaties, at least if unsupported by a definite and continuing national impetus.

ARTHUR W. MACMAHON, *director.*

Columbia University.

4. PROBLEMS OF PUBLIC ADMINISTRATION

The round table subjects were three: (1) public personnel administration; (2) reorganization of the federal government; and (3) reorganization of state government. Each meeting was under the chairmanship of Dr. W. F. Willoughby, director of the Institute for Government Research, who opened the meetings with a general introduction to the subject. The average attendance was thirty.

On the first day Mr. George R. Wales, a member of the United States Civil Service Commission, read a paper on public personnel management in which he described the federal personnel system, its

magnitude and the restrictions necessary in the operation of it. He also touched upon weaknesses and difficulties and the necessities for improvement of administration. He advocated control over personnel matters in a department by the head thereof, but centralization of the administration of general policies in order to insure uniformity. The scattered practices and lack of uniformity now existing could, he maintained, be subjected to a coördinated policy under the civil service law of 1883; and he suggested the creation of a coördinating board composed of the personnel officers of the various departments and establishments working in conjunction with the Civil Service Commission. Upon question of Dr. Morris B. Lambie, of the University of Minnesota, Mr. Wales denied that legislation is necessary for this step, and stated that it could be brought about through the chief coördinator's office.

Mr. Fred Telford, of the Bureau of Public Personnel Administration, emphasized the fact that twenty scattered agencies administer the federal civil service and that a mass of uncorrelated legislation exists. He questioned whether a coördinating board could function under existing conditions and whether an executive order could set aside so many laws. He maintained that drastic legislation and reorganization are necessary. Dr. Ellery Stowell, of the American University, asserted that conditions are chaotic and that the entire plan is wrong. He advocated complete centralization, and one executive head for civil service, since most of the work is executive and administrative.

Dr. L. M. Short, of the University of Missouri, questioned the value of consolidation and coördination unless selection and promotion were combined. Mr. Wales admitted that little advance has been made in promotional procedure and that efficiency ratings and promotional decisions should rest in a department or unit, and not, as now, with a separate, outside organization.

The second session, following an opening address by Dr. Willoughby on various phases of the reorganization problem, was devoted to a paper by Mr. L. W. Wallace, secretary of the American Engineering Council, on federal reorganization. The paper dealt principally with the efforts toward establishment of a United States department of public works and public domain, to take over rivers and harbors work, public roads, building construction, reclamation, etc. This, admittedly, is half a loaf, but the most to be expected, or advisable to push, at present. The paper emphasized the probable resulting economies and the possibility, under such consolidations, of pro-

moting nation-wide public construction enterprises during periods of slack employment, it being brought out that such federal programs at present go ahead without reference to economic conditions or business cycles.

Dr. Willoughby emphasized the distinction between public works construction for the public use at large and for the government itself. He stated that the new department would act as a construction agency, on call, for other departments. The point was also brought out that trained engineers for war service would be as readily available as if rivers and harbors were under the War Department. Professor Fairlie, of the University of Illinois, emphasized that piecemeal reorganization is feasible and practical, as demonstrated by the experience of Illinois. It was noted, too, that "special interest" councils could be established for various fields, e.g., child welfare and agriculture.

The basis of reorganization was also discussed, that is, (1) by classes of persons benefitted, (2) by functions. It was agreed that neither method is exclusively possible. It was mentioned that the "Brown plan" of reorganization forms the basis of most recent suggestions. In most cases a combined or hybrid plan is necessary.

Professor W. H. Edwards, of the University of North Dakota, read the main paper at the third meeting, the subject being state reorganization. This paper seriously questioned centralization and executive control of administration and brought forward the commission, legislative, or "interest group" plan of administration, on the theory that legislative responsibility is desirable. Dr. Willoughby brought out that executive responsiblity in no way abrogates legislative powers. Under the executive plan, the governor merely becomes responsible and responsive executor of legislative policies.

Dr. L. M. Short, of the University of Missouri, maintained that continuity of personnel and centralized fiscal control are the vital factors. Numerous speakers illustrated the evils of board and commission administration, by example and experience. The concensus was for executive centralization of administration with accompanying responsibility.

Discussion turned to the pre-audit and its abuse. Examples were cited where pre-audit, by the executive, was used so as to constitute essentially a veto of legislative enactment. Dr. Short cited Missouri practice in which withholding a portion of an appropriation, ostensibly to prevent a deficit, acts effectively as a threat or a veto in fact.

DARRELL H. SMITH, *secretary.*

Washington, D. C.

5. THE GOVERNMENT AND THE PRESS

Professor Robert D. Leigh, of Williams College, as director of the round table, outlined the problems before it as follows:

I. Methods of reporting Washington news and their defects.
   - A. Congressional and Supreme Court news
   - B. White House news
   - C. Cabinet, departmental, and bureau news
   - D. News from private propaganda sources

II. Newspaper handling of the political news
   - A. Theories of newspaper bias and defect
     1. Evolution of the newspaper business
     2. Ignorance theory: defects in training of reporters and defects in news-gathering technique: e.g., Walter Lippmann, *Public Opionion*
     3. Conspiracy theory: control by owner and advertiser: e.g., T. R. B. in *New Republic*, 1923-1927; Upton Sinclair, *The Brass Check*
     4. Yokel theory: control by readers' interest and bias: e.g., H. L. Mencken's article in Bleyer's *The Profession of Journalism*
   - B. Test of theories in newspaper treatment of recent news
     1. Oil and other scandals of Harding régime
     2. Coolidge administration; especially coal strike and French debt controversy
     3. Mellon tax plan
     4. Mexican and Nicaraguan relations
     5. Senatorial primaries; Smith, Vare, and Gould cases
     6. Smith-Marshall debate
     7. Sacco-Vanzetti case

III. Influence of the newspapers in the formation and expression of public opinion

Mr. J. F. Essary, of the Baltimore *Sun*, described the way in which Washington news, and more particularly White House news, is gathered. He traced the development of the White House conferences from their institution during the Taft administration to the present, pointing out that the "free and easy" spirit of the conferences in the Roosevelt and early part of the Wilson administration has given place to a much more rigid system. At the present time the proceedings are entirely *ex parte*; written questions must be submitted in advance of the conference, the President answers only those he wishes

to, and correspondents are not permitted to quote questions which are not answered. Throughout his talk Mr. Essary emphasized the independence of the press in this country and gave it as his opinion that even the recent restrictions do not make it impossible for correspondents to present an accurate picture of the news. In the discussion which followed, one Washington newspaper man deplored the tendency to magnify the importance of the President in the Washington dispatches, for the reason that it gives the people the erroneous idea that he is the real leader and spokesman of the Administration, when as a matter of fact most of the opinions expressed by him are formulated by others and might be obtained directly from those individuals. Mr. Leigh pointed out that this criticism ran counter to the tendency of political scientists to emphasize the desirability of executive leadership.

The problems connected with the reporting of Supreme Court news were presented by Mr. Hankin, of the Legal Research Bureau. He compared the accuracy of the British court reports in the London *Times* with the poor reporting of court decisions in the United States. He pointed out that in order to be both readable and accurate such reports must be written in the first instance by a lawyer, put into readable form by a newspaper man, and then revised by a lawyer. In order to get the news to subscribers in a short space of time, Mr. Hankins' organization finds it necessary to prepare the facts and the possible decisions of each case in advance of the actual decision.

Mr. George, of the publicity bureau of the Department of Agriculture, described some of the difficulties connected with the presentation of departmental news. Technical reports must be put in readable form and the department is under continual pressure from organizations desiring it to endorse such campaigns as "eat more meat" week.

Mr. Leigh outlined the various explanations which have been advanced for newspaper bias and defects. The "ignorance theory" emphasizes the lack of specialized technique on the part of press correspondents; the conspiracy theory points to the pressure which newspaper owners and advertisers bring to bear upon editors in shaping the policy of the paper; and the yokel theory puts the responsibility upon the public, on the ground that readers demand and will pay for sensationalism. He pointed out that these theories are not mutually exclusive and that probably the real explanation is a combination of these. Mr. Judson King, of the National Popular

Government League, gave a case study of the way in which private propaganda influenced the press in connection with the water-power question. He gave numerous instances of the way in which misstatements of fact concerning publicly-owned electric power plants in Canada had been circulated in the press of the United States and Canada.

Upon the last day of the meeting Mr. David Lawerence, of the *United States Daily*, was present to answer questions and explain farther the ideas presented by him at a previous luncheon meeting. He deplored the contemptuous attitude of the press toward public men and gave this as one of the reasons why many men will not accept high administrative positions or run for office. In the discussion following, the opinion was expressed that the knowledge on the part of intelligent people of the publicity "hokum" and resulting from the false inflation of men in public life has as much to do with keeping promising material out of politics as any process of deflation that goes on. Mr. Lawrence emphasized the part which the advertiser plays in bringing pressure to bear upon the publisher to increase the circulation of a newspaper, the publisher in turn bringing pressure to bear upon the editor to print the kind of news that the people like. He expressed the opinion that the character of the news will be vastly improved when advertisers are brought to a realization that it is the quality, rather than the quantity, of circulation that is important to them, and pointed to the introduction of qualitative analyses of advertising as a hopeful sign.

LOUISE OVERACKER, *secretary.*

Wellesley College.

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

By vote of the Executive Council, the twenty-fourth annual meeting of the American Political Science Association will be held at Chicago on December 27-29. The members of the committee on program are Professors S. Gale Lowrie (chairman), John Dickinson, A. W. Macmahon, Kirk H. Porter, and W. J. Shepard.

Professor Charles E. Merriam delivered the convocation address at the conclusion of the winter quarter at the University of Chicago, his subject being "Regional Planning."

Professor James W. Garner, of the University of Illinois, will spend the next academic year in travel in Europe, the Near East, and Egypt.

Professor Bruce Williams, of the University of Virginia, has been appointed to a professorship in the department of government at Cornell University.

Professor Thomas H. Reed, of the University of Michigan, has been serving as director of research for the Pennsylvania commission to study municipal consolidation in counties of the second class.

Professor Robert E. Cushman, of Cornell University, is acting professor of government at Harvard University during the second half-year. He is giving one course for Professor A. N. Holcombe and one for Professor H. A. Yeomans, both of whom are on leave.

Dean Herman G. James, of the University of Nebraska, will give a course in Latin American political institutions and a course in municipal organization, during the coming summer session, at the University of California at Los Angeles.

Professor Robert D. Leigh, of Williams College, has been elected president of a new institution in Vermont to be known as Bennington College for Women. Mr. Peter Odegard, of Columbia University, has been appointed his successor at Williams, as assistant professor of political science.

Professor Lindsay Rogers, of Columbia University, has been employed by Governor Smith in recent months as a Moreland Act com-

missioner to investigate the department of labor of the state of New York.

Dr. Stephen P. Duggan, director of the Institute for International Education, retired in January as head of the department of government in the College of the City of New York.

Professor John Dickinson, of Princeton University, is conducting a graduate seminary at Bryn Mawr College in the absence of Professor Roger H. Wells, whose undergraduate courses are in charge of Dr. Henrietta C. Jennings.

Professor Leonard D. White, of the University of Chicago, has been elected a trustee and member of the corporation of the National Institute of Public Administration.

During the winter quarter, Professor Harold D. Lasswell, of the University of Chicago, was on leave for half time while working with the Social Science Research Council's committee on scientific method. Professors C. E. Merriam and J. A. Fairlie are other members of a committee appointed to represent the interests of political science in the preparation of a methodological case-book in the social sciences.

Professor Ralph S. Boots, of the University of Pittsburgh, will teach at the University of Nebraska during the second half of the coming summer session.

Mr. Lennox A. Mills, PhD., Oxon., is lecturing in political science at the University of Minnesota in the winter and spring quarters, and is in charge of some of the courses formerly taught by Professor C. D. Allin.

Dr. Herman C. Beyle, assistant professor at the University of Minnesota, has accepted a professorship in the School of Citizenship and Public Affairs at Syracuse University, beginning next fall.

Mr. Harvey Walker, instructor in political science at the University of Minnesota, and acting head of the Municipal Reference Bureau, has accepted a call to an assistant professorship in the department of political science at Ohio State University.

Dr. V. Kenneth Johnston, at present acting assistant professor of government at Cornell University, goes in June to the Historical Records Office in Ottawa, a post which he had accepted before he went to Ithaca.

Professor Louis B. Schmidt, of the Iowa State College of Agriculture and Mechanic Arts, will give courses, including one on the history of international relations, at the University of Alabama during the coming summer session.

Professor Kirk H. Porter, of the State University of Iowa, will conduct a round table on county and state government at the Virginia Institute of Public Affairs, to be held at the University of Virginia this summer.

The department of political science at Stanford University announces the promotion of Dr. Graham H. Stuart to a full professorship and the appointment of Dr. Thomas S. Barclay and Dr. Walter Thompson as associate professors. Mr. Chester H. Rowell has been reappointed lecturer in international relations, and Mr. John M. Edy has been made lecturer in public management.

Professor William H. George is on leave of absence from the University of Washington for the second semester of the present academic year and is teaching courses in American political theory and institutions at the University of Hawaii. Before returning to the United States Professor George will visit the South Sea Islands. He is collecting materials for a book on the government of Hawaii. Professor Francis G. Wilson, of Stanford University, is teaching the courses in political theory at the University of Washington usually offered by Dr. George.

Professor Jesse S. Reeves, of the University of Michigan, will offer a course in international law and a seminar in international law and relations in the University of Washington summer school. Professor Wooddy, of the University of Chicago, will give courses in comparative government and political theory, and Professor W. Leon Godshall, of Union College, courses in the government of dependencies and Far Eastern relations.

Professor Kenneth Cole, of the University of Washington, has been granted another year's leave of absence in order to carry on his advanced studies and teaching at Harvard University. Meanwhile Mr. Granvyl Hulse, of Harvard University, will continue as instructor in political science at the University of Washington, giving courses in state and municipal government.

Professor Linden Mander, formerly of University College, Auck-

land, New Zealand, has been appointed assistant professor of comparative government at the University of Washington. Professor Mander will spend the summer in England obtaining material from the archives of the government offices for a forthcoming book on the British Commonwealth of Nations.

Mr. John J. George, of the University of Michigan, will teach history and political science at Denison University during the coming summer session.

Dr. Harley F. MacNair, associate professor of Far Eastern politics and diplomacy at the University of Washington, will teach in the summer session of the University of Chicago.

Mr. A. S. White, formerly professor of political science at Marshall College and at present honorary fellow in political science at the University of Wisconsin, will give courses at the University of Kentucky during the coming summer session.

Mr. C. Walter Young, formerly instructor in political science at the University of Minnesota, is completing his third year as Willard Straight fellow in Chinese studies. The first two years were spent in China; the present year, at the University of Leiden. Mr. Young's doctoral dissertation will deal with Japanese colonial policies and administration in Manchuria.

Mr. J. F. Shreiner, who is completing his residence work for the doctorate at the University of Wisconsin, has been appointed assistant professor of political science at Miami University.

Dr. Lewis Rockow and Mr. Dale A. Hartman have resigned their positions in the School of Citizenship and Public Affairs at Syracuse University, to take effect in June. Mr. Hartman will become a candidate for the doctorate in political science at the London School of Economics and Political Science, and Dr. Rockow will do research work in the British Museum.

Professor James Quayle Dealey, head of the department of social and political science at Brown University, will retire at the close of the present academic year. Recently Professor Dealey has published two short works, of which one is a history of the department of social and political science at Brown University from 1891 to 1927 and the other is a study entitled *The Political Situation in Rhode Island and Suggested Constitutional Changes.*

Professor W. W. Willoughby, of the Johns Hopkins University, is spending the second half of the academic year in travel in South America, Africa, and the Mediterranean region. During his absence Dr. James Hart has conducted the political science seminary, and has also lectured on "government and public opinion." Dr. Hart will be a member of the summer quarter faculty of the University of Virginia for the fifth consecutive summer, and will offer graduate courses on "science and politics" and "government and public opinion." Professor W. W. Cook, of the Yale Law School, is for the second consecutive year visiting professor in the political science department of the Johns Hopkins University. He is offering a course on the legal and logical bases of the conflict of laws.

Three out of twenty-one research fellowships awarded by the Social Science Research Council for the year 1928–29 are in the field of political science. The three fellows and their projects are: Harold F. Kumm, University of Minnesota, "The limits of executive and administrative discretion in administrative law"; Harold D. Lasswell, University of Chicago, "Possible uses of psychiatric methods in the study of political personalities"; and Rodney L. Mott, University of Chicago, "English and European legal concepts similar to the American constitutional concept of due process of law."

During the summer quarter Professor Francis W. Coker, of Ohio State University, will give courses at the University of Chicago on recent political theory and recent developments in American constitutional doctrine. Professor Raymond Moley, of Columbia University, will give courses on comparative political parties and the administration of criminal justice. Mr. John Crane, director of the Institute of World Politics, will give a course on Central European politics; Professor Rodney L. Mott will give courses on advanced American and comparative government; and Professor Quincy Wright will lecture on the international law of peace and on treaties.

Mr. A. L. Dixon, assistant secretary of the Home Office, Great Britain, gave a series of lectures during the first half of the spring quarter at the University of Chicago on the subject of police administration in Great Britain. These lectures were attended, not only by graduate students, but by police officials detailed from Cincinnati, Kenosha, and other cities.

At a Southeastern Citizenship Conference, held at Emory Uni-

versity in February, lectures were delivered by Professor James W. Garner, of the University of Illinois, on aspects of American citizenship and foreign policy, and by Hon. Adamantios Th. Polyzoides, editor of *Atlantis*, on Eastern European and Mediterranean politics.

The Dodge lectures on citizenship were delivered at Yale University during February and March by Professors Charles P. Howland of Yale, Joseph Schumpeter of Vienna and Harvard, John H. Latané of Johns Hopkins, and James T. Shotwell of Columbia, and Mr. H. N. Brailsford. Lectures on the Sherrill Foundation for International Relations were given by Senator George H. Moses of New Hampshire and Dr. Albert Shaw, editor of the *American Review of Reviews*.

The University of Cincinnati has reëstablished an office of its municipal reference bureau in the city hall, under a coöperative arrangement with the city government. The bureau will serve the city directly in supplying information on problems of city government, preparing abstracts and reports, and digesting and making available current municipal literature. The University has appointed Mr. Emmett L. Bennett, a graduate of the University of Kansas, as director of the bureau. Some years ago Mr. Bennett was in charge of the municipal reference bureau of the University of Minnesota, and more recently he has been in the service of the Cleveland city council as its legislative aide.

Far-reaching recommendations of measures to insure a greater degree of justice for the poor man than is now ordinarily available are contained in a report submitted in March to the Association of the Bar of the City of New York and to the Welfare Council of New York City by a joint committee of these organizations. The report is the result of a year's study of the so-called "poor man's lawyers," "poor man's courts," and the legal aid needs, resources, and methods in New York City. The study was financed by the Russell Sage Foundation and directed by former magistrate W. Bruce Cobb, with Mrs. Dorothy G. C. McCann as research assistant.

The University of Chicago is about to erect a building to be devoted to the research activities of the social science departments. The building will immediately adjoin the east end of Harper Memorial Library, and will in some particulars be unique. Except for five seminar rooms, there will be no recitation rooms in it; also no read-

ing rooms or stacks. There will be a large number of study and work rooms arranged in combinations of two, three, or more. On the second floor will be a laboratory for anthropological and archaeological investigation; on the third floor, a laboratory for psychological investigation; and on the fourth floor, a statistical laboratory with adequate equipment for machines. The counting machines will be in special sound-proof rooms in the basement. The building will also provide offices for the social science journals published by the University of Chicago. In general, it is thought of as a structure devoted exclusively to research and graduate instruction.

The first issue of a new quarterly journal, the *Revue Internationale des Sciences Administratives*, was published during the early spring under the auspices of the permanent international committee of the Congress of the Administrative Sciences whose meeting was held some months ago in Paris. A high standard of excellence was set by the first number, which if maintained will enable the publication to rank with the *Journal of Public Administration* published under the auspices of the Institute of Public Administration in Great Britain. Subscriptions at the rate of fifteen belgas may be sent to 16 Rue de la Brasserie, Brussels. The *Revue* will carry not only articles by international authorities in this field, but also a very important bibliographical section which will bring to the attention of American students of government a wealth of material not heretofore available.

The thirty-second annual meeting of the American Academy of Political and Social Science was held at Philadelphia on May 11-12. A session was devoted to each of the following topics: (1) the rehabilitation of Europe and the Dawes plan, (2) recent aspects of our relations with Latin America, (3) China and American foreign policy, (4) the present situation in Russia: its relation to American foreign policy, (5) the present and future of Anglo-American relations, and (6) the present and future of disarmament.

The newly formed Chicago Institute of Local Politics, created under the auspices of Northwestern University, Loyola University, the University of Chicago, and a number of civic organizations, has issued a report calling for greater home rule for Chicago. The report calls attention to three possible ways of attaining the end, but unqualifiedly endorses the plan of amending the state constitution. The authors of the report are Professor A. R. Hatton, of Northwestern University, Professors L. D. White and Jerome G. Kerwin, of the University

of Chicago, and Messrs. E. O. Griffenhagen, George C. Sikes, Harold L. Ickes, and Francis X. Busch.

The American Council of Learned Societies announces the establishment of an advisory board charged with examining and appraising research and other projects, and with "coördinating them and assigning to them their appropriate places in a series of carefully planned programs for the general and systematic development of the humanistic sciences." The members of the board, as appointed in February, are: Professors Dana C. Munro, of Princeton University, chairman; Clifford H. Moore and John S. P. Tatlock, of Harvard University; Michael I. Rostovtzeff and Charles C. Torrey, of Yale University; Carl D. Buck and William A. Nitze, of the University of Chicago; Frank Thilly, of Cornell University; and Frederic A. Ogg, of the University of Wisconsin. The new board held its first meeting in New York on April 7.

The Pacific Southwest Academy of Political and Social Science, founded in 1927 to promote the cultivation of the social sciences and their application to the solution of social and political problems, joined with Pomona College and Claremont Colleges in an Inter-American Institute held in Claremont on February 9-11. Lecturers included Dr. Andres Osuna, director of public education, state of Monterey, Mexico, and Professors Ramon Beteta, of the National University of Mexico, Herbert I. Priestley, of the University of California, and Charles W. Hackett, of the University of Texas.

The twenty-second annual meeting of the American Society of International Law was held at Washington, D. C., on April 26-28. The special committee for the progressive codification of international law, Professor Jesse S. Reeves, chairman, presented a report; and leading papers or addresses—in addition to the annual opening address of Hon. Charles E. Hughes as president—included "The Status of Canada from an International Point of View," by Mr. Justice B. Russell; "Nationality," by Hon. Clement L. Bouvé; "Responsibility of States for Damage Done in their Territory to the Person or Property of Foreigners," by Hon. Chandler P. Anderson; and "Territorial Waters," by Professor George Grafton Wilson. The annual dinner was held at the New Willard Hotel, with Mr. Hughes presiding.

The Third Los Angeles Institute of Public Affairs will be held in

connection with the summer session of the University of California at Los Angeles July 9 to 14. The lectures and conferences will deal (1) with the relations of the United States with Latin-American nations, with special emphasis upon some of the problems of the recent Pan-American Congess at Havana, and (2) with the subject of taxation, with particular reference to some of the issues now before a state tax commission which is to make recommendations to the next legislature for changes in the tax system of the state. Among the lecturers and conference leaders are Dean Herman G. James, of the University of Nebraska; Professor Pitman B. Potter, of the University of Wisconsin; Professor Harley M. Lutz, of Stanford University; and Colonel Lawrence Martin, of Washington, D. C. Professor Malbone W. Graham, Jr., is chairman of the committee in charge of the arrangements for the Institute.

The fifth institute under the auspices of the Norman Wait Harris Memorial Foundation will be held at the University of Chicago from June 18 to June 30. It will be devoted to foreign investments and international finance. Attention will be paid to both the economic and the political aspects of the question, and problems arising in backward and undeveloped areas will be dealt with as well as those arising in the relations of advanced states. Among the lecturers will be Professor Gustav Cassel, of the University of Stockholm; Professor Corrado Gini, of the University of Rome; Professor T. E. Gregory, of the University of London; Dr. Robert R. Kuczynski, of the Institute of Economics, Washington, D. C.; and Mr. Henry Kittridge Norton, of New York. Representatives of several of the government departments at Washington will be present, as will business-men, bankers, and economists from various parts of the country. Round tables will be organized affording an unusual opportunity for detailed discussion of the problems within the range of the institute's program. Public lectures will be given every day during the period of the institute. Persons interested may address Professor Quincy Wright, executive secretary, University of Chicago.

The Institute of International Relations, which has held annual conferences for some years past, will meet this summer at the University of Washington. The dates are July 22-27. As heretofore, there will be morning round tables, afternoon conferences, and evening lectures. Round tables will be organized to consider the following subjects: 1, China; 2, Japan; 3, Great Britain and the United States;

4, international law and organization; 5, international labor; 6, race problems; 7, international commerce; 8, international education; 9, American foreign policy and administration; 10, Latin American affairs; 11, disarmament and national defense; 12, public opinion and international relations; 13, international finance. Round-table leaders and associates will include the following members of the University of Washington faculty: Professors Gowen, Price, McKenzie, Skinner, Griffin, Randolph, Jessup, Leib, Quainton, MacMahon, MacNair, and Mander. Leaders from other institutions will include Professors Thomas of Utah, Maxey of Whitman, Noble of Reed, MacGregor and Maddox of Oregon State, Hills, Barrows, and Williams of California, Dickinson, Massen, and Reeves of Michigan, Bernard of Tulane, Mears, Stuart, and Lutz of Stanford, Potter of Wisconsin, Harley and Bogardus of Southern California, Pitkin of Columbia, Latourette of Yale, Sage of British Columbia, Wooddy of Chicago, and Godshall of Union. The departments of State and Commerce and the Federal Reserve Board have been invited to send representatives to participate in the round tables in which they have a direct interest. The chancellor of the institute is President Rufus B. von Kleinsmid, of the University of Southern California; the director is Professor K. C. Leebrick, of the University of Hawaii; and the executive secretary is Dean Charles E. Martin, of the University of Washington.

The Social Science Research Council desires to call the attention of research workers to its plan of grants-in-aid. These grants, unlike the Council's fellowships, are not awarded merely once a year but are available at various times throughout the year. The primary interest of the advisory committee on grants-in-aid is to bring about the completion of pieces of research, rather than the development of promising researchers. Preference will be given to proposals which involve (a) improvement of technique and development of methods, (b) two or more of the social sciences, including history, or (c) problems of present scientific significance. Preference also will ordinarily be given to applicants from the smaller institutions, from which financial aid for social science research is not at present available. Ordinarily the committee will not propose such grants for persons who are eligible to receive a fellowship from the Social Science Research Council. Further, grants-in-aid will ordinarily be proposed only (a) when a substantial amount of work has already been done;

(b) when the need for financial assistance is demonstrated; and (c) when a definite plan for future work has been presented. Every applicant will be required to submit (1) a careful statement of the proposed plan of work; (2) such parts as are already completed; (3) a statement of the ultimate scope and object of the study; (4) a statement of the sum of money desired; (5) the date when the applicant expects to be free to continue his work; (6) the probable date of completion; (7) the applicant's professional record, including men under whom he has worked, and their endorsement of his application; and (8) a record of other prior pending applications for aid from this or other agencies. Applications should be sent to the office of the Council, 50 East 42nd Street, New York City. The next meeting of the Council's committee on grants-in-aid is scheduled for the middle of June.

Encyclopaedia of the Social Sciences. The following report is based upon printed reports of progress prepared by the editor-in-chief, Professor E. R. A. Seligman, and the assistant editor, Dr. Alvin S, Johnson, for the board of directors at its first meeting on December 15, 1927. It will be recalled that the enterprise, as outlined by Professor Seligman, following the meetings of a joint committee which was and is composed of three representatives of each of the participating associations (formerly seven and now ten), involves the publication of about ten volumes at an estimated expenditure of $600,000, and with a time limit of between five and seven years. The editor-in-chief has personally raised practically all of the money needed, and in May, 1927, the joint committee held a meeting in New York, at which plans were definitely approved and steps taken for organization of the staff and board of directors. The staff includes Dr. Alvin S. Johnson as assistant editor, Dr. Alexander Goldenweiser as associate, and Miss Mary E. Gleason as secretary. For legal advice, the firm of Sullivan and Cromwell, New York, was retained, and the enterprise has been incorporated as Encyclopaedia of Social Sciences, Inc. The board of directors is composed of twenty-one members, eight lay and thirteen academic, the American Political Science Association being represented by Professor John A. Fairlie. The remaining members of the corporation are the members of the former joint committee, on which the three representatives of the Political Science Association are Professors Fairlie and William B. Munro and Mr. J. H. Logan. On the board of advisory editors Drs. Charles A. Beard and Frank J. Goodnow are responsible for political science.

The uses of the encyclopaedia are conceived as threefold: (1) to provide a synopsis for the scholar of the progress that has been made in the various fields of social science; (2) to furnish an assemblage or repository of facts and principles for the use of the legislator, the editor, the business man, and all who are interested in keeping informed on recent investigation and accomplishment; and (3) to constitute a center of authoritative information for the creation of sound public opinion on the major questions which lie at the foundation of future progress and world development.

Though the work is primarily American, and in management distinctively so, the most distinguished scholars of the whole world will be asked to participate. To this end, Professor Seligman interviewed European scholars in the more important universities from Oslo to Florence in the summer of 1927. The heartiness of the coöperation offered him was an explicit recognition that this project would be of signal importance to the progress of the social sciences throughout the world.

The work thus far done by the assistant editor and his staff has resulted in certain definite plans of procedure. A list of topics for the entire encyclopaedia has been assembled and tentative plans made for the treatment and for the space valuation of each topic. It has become clear, through the actual analysis of material, that the present divisions between the social sciences lose their distinctness and rigidity. The assistant editor predicts that when the encyclopaedia is written no one will be able to determine what proportion of the total space has gone to each science. The content of the work and the method of dealing with such allied fields as art, philology, and religion remain to be definitely worked out; but the approach is through the topics to be included rather than the branches of knowledge into which they might be expected to fall. Compactly organized topics are planned, instead of extended discussions of whole phases of a subject; and the typical article will be brief, ranging perhaps from 500 to 5,000 words. To give unity, an extended introduction is proposed, which will include, among other topics related to the plan and purpose of the publication, (1) a history of the social sciences, analyzing by periods from the time of the Greeks the chief content, the institutional situation, the general movement of thought, and the methods employed; (2) an analysis of terminology, historical and comparative; and (3) a rigorously selected bibliography.

As an alternative to having the bulk of the work done by the staff,

or, on the other hand, to assigning it in large sections to editorial contributors who would be expected to sublet the actual composition of the several articles to others, the plan is to make assignments directly from the central office. The method is a laborious one, but it is believed that it will tend to render the whole enterprise more truly coöperative and to secure better collaboration of the authors in thinking through the relations of the sciences and the evolution of social scientific ideas, and in other phases of the undertaking in which joint effort is essential. The expectation is that assignments will have been made for the first two volumes early in 1928, and the appearance of the first volume is forecast for the spring of 1929, a little less than two years from the time of the actual inception of the enterprise.

JOHN A. FAIRLIE.

University of Illinois.

Social Science Abstracts. The Social Science Research Council announces plans for the publication of a new monthly journal to be known as *Social Science Abstracts*. These plans are the result of five years of study by a committee of the Council which has canvassed the situation with respect to the needs, resources, and purposes to be served by a comprehensive abstract service in the social sciences. A substantial subsidy has been provided for a period of ten years, until the journal has become self-supporting through subscriptions.

In its report to the Council at Hanover, New Hampshire, in August, 1927, the Committee on Social Science Abstracts stated the need for abstracts in the following paragraphs:

"The founding of the Social Science Research Council is itself a recognition of the fact that leaders in the social sciences are convinced that research in these disciplines is greatly in need of stimulation and direction, and further, that the scholars in these fields should be brought closer together for the consideration and solution of common problems. On the other hand, the deliberations of the Committee on Social Science Abstracts, and much of the information gathered by it, clearly bring out the fact that one great obstacle to the doing of truly scientific research in these fields lies in the tremendous mass of the materials to be considered and in the relative, if not quite complete, lack of appropriate tools for attacking it. There are so many books, pamphlets, and reports constantly being published and so many periodicals, both scientific and semi-scientific, steadily pouring from printing houses both here and abroad, that it is physically impossible for any

one to keep abreast of all the literature, even in his own special field of work. For this reason also, and in making a courageous effort to read what he should, he is likely to take first the publications obviously in his own special field, and for lack of time to do more, to become increasingly oblivious of what is being done in other disciplines upon the same subjects. Thus artificial departmental lines tend to become sharper, and in his mind the social sciences stand as distinct and separate fields.

"To overcome these difficulties, a journal is proposed which will save an almost infinite amount of time and labor on the part of research workers, by giving them in one journal complete citations and short but objective abstracts of all important new materials, and will at the same time draw together the several disciplines by serving them all through one journal based upon some systematic classification and improved by numerous cross-references to the materials in other fields. Other important advantages of such a publication could easily be stated. It will save much duplication and waste of effort, it will apprise the worker of the existence of other specialists working on his problems and stimulate correspondence between them, it will call attention to new methods of research, it will serve as a permanent record of the work already accomplished, and will in many other ways promote the healthy development of the sciences to which it relates."

The Social Science Research Council has appointed an organizing committee consisting of the following scholars, and charged with the responsibility of organizing and establishing *Social Science Abstracts*: Dr. Isaiah Bowman, of the American Geographical Society; Dr. Davis R. Dewey, editor of the *American Economic Review;* Dr. Carlton Hayes, professor of history in Columbia University; Dr. Frederic A. Ogg, editor of the *American Political Science Review;* Dr. Frank A. Ross, editor of the *Journal of the American Statistical Association;* Dr. Clark Wissler, professor of anthropology in Yale University; and Dr. F. Stuart Chapin, chairman, professor of sociology in the University of Minnesota.[1]

To assist the organizing committee, a number of advisory committees have been appointed in the fields of cultural anthropology,

[1] At a meeting of the Social Science Research Council held in Chicago on April 7 this organizing committee was reconstituted as a standing committee of the Council on *Social Science Abstracts*. The membership is unchanged except that Professor Chapin, having been elected editor of the journal for the first year, was succeeded on the committee by Professor Ellsworth Faris, of the University of Chicago, and as chairman by Dr. Bowman. *Man. Ed.*

economics, history, human geography, political science, sociology, and statistics. These advisory committees have been asked (1) to suggest the names of scholars who may be considered for the position of salaried editors and unsalaried consulting editors; (2) to draw up a scheme of classification adequate to the needs of the systematic grouping of materials from their respective fields of specialization within the social sciences.

Since the Council is made up of delegates from the national learned societies in the fields of anthropology, economics, history, political science, geography, sociology, and statistics, the purposes of the Council in its efforts to further coöperative scientific research in the social sciences is best served by devoting the new journal to the fields of cultural anthropology, history, economics, human geography, political science, sociology, and statistics, broadly construed.

Social Science Abstracts will be issued monthly throughout the year, and in each issue will appear systematic abstracts of new information published in the fields indicated for the preceding month or months. The journal will be printed in English in this country, but it will attempt to cover the social science literature of the world as originally published in all languages.

Negotiations are under way to establish a satisfactory basis of cooperation with the Committee on Intellectual Coöperation of the League of Nations in working out a modus operandi with the arrangements for economic abstracts undertaken by this international organization.

The test of published materials to be abstracted will, in general, be the criterion of *new information*, in the sense of important factual studies and contributions to theory and opinion, in the fields of the social sciences indicated. This will require the careful scrutiny of periodical literature, pamphlets, bulletins, monographs, and books. It is conservatively estimated that the number of abstracts will run to fifteen or twenty thousand titles the first year. The abstracts will be cross-referenced, and annual indexes will be published. It is expected that the first number of *Social Science Abstracts* will be published at the beginning of the next calendar year.

F. STUART CHAPIN.

University of Minnesota.

Research in International Law. On the initiative of the faculty of the Harvard Law School, a group of Americans has launched a re-

search project in international law planned to deal with the three topics which have been selected by the Assembly of the League of Nations for the agenda of the Conference on Codification of International Law, to be held in 1929.

In 1924, the Fifth Assembly of the League, "recognizing the desirability of incorporating in international conventions or in other international instruments certain items or subjects of international law which lend themselves to this procedure," decided to set up a committee of experts "to prepare a provisional list of the subjects of international law the regulation of which by international agreement would seem to be the most desirable and realisable at the present moment." This Committee of Experts for the Progressive Codification of International Law, as it came to be called, is composed of seventeen jurists, of whom Mr. George W. Wickersham, president of the American Law Institute, is one. At its first meeting, in April, 1925, it chose eleven topics for investigation, and at its second meeting, in January, 1926, a sub-committee reported upon each of these topics. With reference to some of them, questionnaires were prepared and circulated to the governments of all states. The governments' replies were considered by the committee at its third session in March-April, 1927, and seven subjects were reported as "sufficiently ripe" for consideration by an international conference on codification. Of these seven, three were selected by the Eighth Assembly of the League in 1927 for consideration at the conference which is now envisaged for 1929, i.e., nationality, territorial waters, and responsibility of states for damage done in their territory to the person or property of foreigners.

The three subjects selected were among those approved by the government of the United States, in its reply to the questionnaires, as subjects concerning which "international arrangements . . . . would serve a useful purpose and would therefore be desirable." The government of the United States also added that it saw "no insuperable obstacles to the concluding of agreements on these general subjects."

The prospect for a conference in 1929 naturally suggested the desirability of the most thorough scientific preparation. If it is not the first time in history that a diplomatic conference is to be held for the avowed codification of international law, the occasion nevertheless presents an opportunity for disinterested scholars to have their work considered in a way which cannot fail to give it influence. Inspired by the feeling that independent coöperative research by American

scholars and jurists might greatly contribute to the advancement of sound codification of international law, the faculty of the Harvard Law School invited the coöperation of the most active men working in the field to serve as an advisory committee for the organization of such research. Its invitation was accepted by some thirty-five persons, of whom about half are teachers of international law in our universities and colleges.

The necessary financial provision having been made by the Commonwealth Fund, a first meeting of the advisory committee was held in Cambridge on January 7 last. Mr. George W. Wickersham was elected chairman of the committee, and an executive committee was created composed of Messrs. Joseph H. Beale, Manley O. Hudson, Charles Cheney Hyde, Eldon R. James, Francis B. Sayre, James Brown Scott, and George W. Wickersham. It was decided that the research should be undertaken along the general lines followed by the *Institut de Droit International* and the American Law Institute, with a director of research, with a reporter for each of the subjects to be considered by the 1929 conference, and with advisers to assist each of the reporters. Professor Manley O. Hudson was chosen to be the director of research, and the reporters were named as follows: on nationality, Mr. Richard W. Flournoy, of Washington; on territorial waters, Professor George Grafton Wilson, of Harvard University; and on responsibility of states for damage done on their territory to the persons or property of foreigners, Professor Edwin M. Borchard, of Yale University. It is hoped that the reports can be largely completed in 1928, so that they may be available in advance of the assembling of the conference now in prospect.

MANLEY O. HUDSON.

Harvard Law School.

BOOK REVIEWS

EDITED BY A. C. HANFORD
Harvard University

The Early Life and Letters of John Morley. By F. W. Hirst. Two volumes. (New York: The Macmillan Company. 1927. Pp. xxvi, 327; x, 285.)

James Bryce. By H. A. L. Fisher. Two volumes. (New York: The Macmillan Company. 1927. Pp. xiv, 360; x, 360.)

The passing of these two great leaders of English thought and action marks the end of the era of Victorian liberalism, and in their lives and works will be found the best examples and interpretations of its principles of liberty, parliamentarism, and democracy. Both belonged in the category of Platonic statesmen, in whom the broad knowledge of the scholar was combined with the wisdom of the practical man of affairs.

Both of these statesmen have been most fortunate in their biographers. Mr. F. W. Hirst, who has edited the *Early Life and Letters of Lord Morley*, is one of the best known English publicists in the fields of economics and politics. For many years he was an intimate friend of Lord Morley, and he is today perhaps the leading disciple and representative of Lord Morley's philosophy. The present two volumes are devoted to selected phases of Lord Morley's life—to his boyhood days, his college life at Oxford, his journalistic struggles, and his editorial experiences on the *Saturday Review* and the *Fortnightly*. Particular attention is given to his relations and correspondence with the great literary and philosophic leaders of the day—Meredith, Leslie Stephen, George Eliot, Harrison, and John Stuart Mill—and to his political connections with Bright, Gladstone, Chamberlain, and other liberal and radical politicians.

The chapters dealing with Morley's literary and philosophic interests are of much greater value than the purely political chapters. He is here presented to us as "a dashing journalist, ardent rationalist, impetuous radical, and critic of church and throne." During his college days he embraced the rationalistic creed of the scientific and philosophical leaders of the day. For a time he was strongly attracted by the creed of the Comtists, in the fields of both philosophy and religion, but he was altogether too much of a Protestant and disciple of John Stuart Mill to become a convert to the Positivistic creed. With the passing of the years, indeed, he became more tolerant and more

friendly to the church. He was keenly disappointed at the purely materialistic and non-moral tendency of many of the scientific leaders, and at the same time his close political associations with the non-conformists brought him to realize to what a large extent his reform program was bound up with the spiritual ideals of his Christian friends, even though he never surrendered his rationalist faith. He was especially disappointed at the illiberal or conservative attitude of most of his scientific friends in the field of politics, an attitude which caused him to raise the question as to whether science was not narrowing in its tendencies. Although Morley was strongly radical in his philosophy and had been greatly influenced by the French philosophers, he was essentially English in his political outlook, and was always wary in his judgments and suspicious of all glowing phrases and dogmatic generalizations. Only in the field of economics did he remain a confirmed "fundamentalist." No changes in the economic conditions of England could affect in the slightest his devout belief in the free-trade principles of Cobden and the Little Englanders.

The second volume, dealing with Morley's early political career, is much less interesting and significant. Mr. Hirst succeeds in throwing some new light upon Morley's intimate relations with Spence Watson and Chamberlain and his part in the formation of the Radical wing of the Liberal party. Probably the most original part of the volume is the treatment of the gradual estrangement between the two Radical leaders on the Home Rule question; but the breach, after all, was almost inevitable, owing to the marked differences in the training, associations, and philosophies of the two leaders. Chamberlain was an intense realist, whereas Morley held fast to the principles of the English idealist school.

Mr. Hirst's treatment throughout is most sympathetic and appreciative, even in respect to those aspects of Mr. Morley's thought with which he does not entirely agree. For the most part, he keeps his own social and political philosophy in the background. He prefers to let the correspondence serve as the best and truest interpretation of his master's personality. Only occasionally does he venture to disagree with Morley's views, as in the case of the latter's depreciation of the value and significance of Rousseau's philosophy, and the criticism in this case, it will be readily admitted, is so justly and ably expressed that one is almost tempted to wish that the editor had been more liberal in the expression of his own beliefs. Perhaps in some future volume we may be afforded an estimate by the

editor of the value of Morley's philosophy and of his place in the history of English political theory and practical politics.

Lord Bryce has also been very fortunate in his biographer. The warden of New College is a man very much after Lord Bryce's own heart, for he also has won distinction in the fields of history, politics, and education. Thanks to this similarity of experience, he is able to present to us a remarkably truthful and sympathetic picture of the late ambassador—for to the American public Lord Bryce will always appear as the scholarly representative of Great Britain at Washington rather than as the juristic English statesman.

Although Morley and Bryce had much the same social background, grew up in the same Oxford atmosphere, belonged to the same political party, and served in the same ministries, they were none the less strikingly different in their general outlook on life. The difference was much more than that between the philosopher and the jurist, between the scientific rationalist and the student of liberal institutions, and it reflected in truth a fundamental difference in their religious convictions as well as in their foreign associations. The distinction between the two statesmen in many respects is similar to that of their great prototypes, Hobbes and Locke. Morley was undoubtedly the greater speculative thinker, but like Hobbes he drew much of his philosophy from across the Channel and maintained the closest relations with the Continent. Bryce, on the other hand, like Locke, was consistently British in all his traditions and thoughts. He was a true son of the manse, both in faith and in politics.

The life of Lord Bryce will doubtless make a stronger appeal to the American public.

CEPHAS D. ALLIN.[1]

University of Minnesota.

The Sanctity of Law: Wherein Does It Consist? BY JOHN W. BURGESS. (New York: Ginn and Company. 1927. Pp. vi, 335.)

Beginning with the familiar assumptions of the Austinian or Positivist school of jurisprudence that law is a rule of conduct, obedience to which is enforced, if necessary, by the infliction of a physical penalty, and that the enforcement of penalties presup-

[1] This review is made up of notes which were found among the papers of the late Professor Allin. It represents, perhaps, his last written work; and while obviously neither complete nor in finished form, it has seemed best to publish the notes without revision.

poses a sovereign, which is the very essence of the state, Professor Burgess presents a discourse on history, politics, and law under the title "the sanctity of law." Preconceived notions as to the course which political evolution ought to follow furnished a pattern into which the facts of political history from the time of the Romans to the present day are fashioned to fit. An attempt is made to weave into a connected story sketchy notes and details upon political and constitutional history gathered in the course of years, frequently with little relation to the subject announced. A subsidiary theme throughout the work is the process of nation-forming, in which the natural junction of geographic and economic units with their appropriate ethnic and political factors is regarded as a determining factor. The author desires to explain the advantages of the national state based on the national consciousness of right and the national power for its enforcement. It is through this means that the sancity of law is to be established, and it soon becomes obvious that the Prussian system of pre-war times is regarded as the ideal national state.

The policies and diplomacy of England are criticised and those of Germany are lauded as in line with idealistic political evolution. While German statesmen and diplomats were directing the affairs of Europe, prior to 1914, so as to place democracy on its proper foundations, geographic, economic, and ethnological, Great Britain, Russia, and France were "sowing the seeds of war and anarchy instead of giving to the states of Europe the boundaries and the organization intended by nature and history" (p. 257).

The Allied governments during the recent war are condemned for thwarting the beneficent plans of the Central Powers for the establishment of an idealistic basis for the maintenance of the sanctity of law, and the United States is charged with a large share of blame for interfering with orderly political progress in Europe. On the misguided diplomats of England and on President Wilson is placed the odium for the further Balkanizing of Europe (pp. 262-267). Only contempt is expressed for the "so-called League of Nations," which is now regarded as the chief agent for maintaining European Balkanization, in that it is giving sanction to the maintenance of twenty-eight states where there should be only eight. The League is criticised as an attempt to form a super-state which, according to the monistic theory of sovereignty, is logically and practically impossible unless existing states are to become mere provinces. Prospects for the peace of the world lie, we are assured, in the "attitude of independent aloof-

ness" of the United States by which, it is believed, the League may be reorganized so as to change it from a super-state to an effective debating society.

The reputation of the emeritus professor of political science and constitutional law at Columbia University is too well established to be marred seriously by such a partisan and biased presentation of the facts of history and of politics. The inadequacy of the narrow and formalistic definition of law which pervades the treatise is constantly emphasized in modern juristic literature, and the author's application of the thesis relative to the influences of geographic, economic, and ethnological factors in the process of modern state-forming leads to absurd results.

But dark as is the portrayal of the demoralization and the almost universal retrogression into which England, France, Russia, and the United States have thrust the affairs of the world, there is one ray of hope in the suggestion that American multi-millionaires may furnish the characters and the money to save human civilization. Fortunately, a large part of mankind is devoting its best efforts to discrediting and to destroying the basis on which the sanctity of law as expounded in this work is presumed to rest.

CHARLES GROVE HAINES.

University of California at Los Angeles.

The American Philosophy of Equality. By T. V. SMITH. (Chicago: University of Chicago Press. 1927. Pp. xii, 339.)

Democratic Distinction in America. By W. C. BROWNELL. (New York: Charles Scribner's Sons. 1927. Pp. 270.)

When the president of the American Political Science Association can say with assurance to his audience in a presidential address that our traditional democratic theories are the bonds which restrict the proper development of the science and the art of government by an "atomic theory of politics"—"the postulate that all able-bodied citizens are of equal weight, volume, and value, endowed with various absolute and unalienable rights . . . ."—it is surely high time to revise the accepted notion of equality. And, although in that same address we are advised to secure a divorce for our science from a "polygamous companionate marriage" in which it has been living with philosophy, law, and psychology, in order that it may be yoked in holy wedlock to the method of physics, before the decree is made

absolute it may be worth our while as scientists to see what philosophy and psychology have to say for themselves. We owe to law at least the respect for due process which demands that even the guilty shall not be condemned without a hearing.

The first of the two volumes under consideration may serve as a witness for philosophy, an expert witness, considering the author's standing among the philosophers and his previous inquiries into *The Democratic Way of Life*. Furthermore, he is not to be numbered among the philosophers who, as Professor Munro says, when they "cannot account for a phenomenon in any other way, ascribe it to some occult quality in the moral nature of man." Professor T. V. Smith is by way of being a pragmatist, and his interpretation of equality rests upon a functional account of the conditions of coöperation. Here, if anywhere, we ought to get a satisfactory empirical treatment of equality which the scientist might accept without fear of being trailed "in the sublime cloudlands of the *a priori*."

The problem is set with a pleasant historical approach which covers again, but with a fresh perspective, the development of the idea of political democracy in the United States. The doctrine of natural rights is set in its appropriate context of natural law, with very effective citations and some nice illustrations from the "women's rights" and abolitionist movements. It is a real contribution to have shown how great a part the religious dogma of personal immortality of the soul played in asserting equality as a moral ideal, by giving at least one claim for an equality of fact in this respect at least. The impact of evolutionary materialism has rendered this basis less universal, Mr. Smith thinks, making a substitute necessary. At this point the great names of American philosophy pass almost bodilessly across the stage in search of a philosophy of individuality that implies equality. To Mr. Smith, it is clear, they are a procession of shadows in search of a substance.

We are led eventually to a conception of equality like that of John Dewey, but by the avenue of G. H. Mead's addition of the peculiar nature of the speech mechanism in the formation of human habits through which "the individual becomes a social object in experience to himself" (p. 246). This is the empirical account proposed for the "self" which Kantian theory had made, on *a priori* grounds, the basis of democracy.

But what equality can be proved to exist by this empirical method? "While Americans," we are told, "may have upon occasion *felt* them-

selves to be equal, they have never *thought* themselves to be equal" (p. 253). For this feeling Mr. Smith has a pragmatic respect as an order of truth that has worked results in history. No very serious effort is made here to link up equality with liberty, or even to relate political with social and economic equality. Still he is troubled, as a scientific describer of facts, by a feeling that there is some little discrepancy between the claim of equality in political power and the economic disparities which permit two per cent of the population to control sixty per cent of the wealth. He is further troubled by the prospect that the parity of licit and illicit sex contacts in Chicago may be democratically sanctioned as socially regular in coming generations. These are the risks of democracy, it seems, and risks which he is willing to run.

But what of the inherent goodness of equality? Why democracy as an ideal? He concludes that equality is a useful fiction, "functionally useful without being statically true" (p. 270). As a challenge to Aristotle, who proclaimed that men, being by nature unequal, could not with justice be treated as equals, Mr. Smith proclaims that coöperative loyalty to a community depends upon the acceptance of equality. Of progress toward that end in religion, in government, in industry, it is in the last that the slowest steps have come. He admits the difficulty of race, but he finds in biology no insurmountable bars to coöperative equality, either as between individuals or as between races—given the historical growth of coöperation already realized on both planes. As between the interpretation of the constitution as a bar to bold experiments in the extension of coöperation, it is not hard to guess that he leans to the doctrines of Justice Holmes. A nearer approach, although not an absolute attainment of social and economic as well as political equality, he holds to be necessary to the happy and efficient society.

But has not all this definition been grounded upon an *a priori* set of values? How does this theory differ from Stammler's *Theory of Justice*, of individuals treated as ends in themselves in order that the community may be established by "men willing freely?" Even if science told us with the utmost finality that men are not, and never can be, equal in any respect, would not the ideal of political equality be defensible *as an ideal*? And have not political scientists as well as philosophers to take this ideal into account because of its practical importance in any equation into which it enters historically?

In the matter of *Democratic Distinction in America* we are again

on grounds of considerable political import. Is it true that democratic society means mediocrity of standards and personalities, in politics as elsewhere? Mr. Brownell, writing in the literary tradition of the late Stuart P. Sherman, holds that it does not. He finds hope not only in our great men but in a certain simplicity of taste that strips the man to the essentials and measures real distinction more accurately perhaps than the authoritarian tradition of aristocracy. It is all highly literary discourse, somewhat removed from the blood and sweat of any arena, political or other.

W. Y. Elliott.

Harvard University.

The Living Constitution: A Consideration of the Realities and Legends of Our Fundamental Law. By Howard Lee McBain. (New York: The Workers Education Bureau Press. 1927. Pp. viii, 284.)

The emphasis of this volume is upon certain features of the constitution which current discussion has thrust into prominence; its tone is that of dispelling prevalent misconceptions. It is studded with such expressions as "the truth of the matter is" (p. 3), "the fact is" (p. 17), "there is no glossing the fact" (p. 55), "but the fact is" (p. 121); and on the other hand, "a serious distortion of the facts" (p. 225), "an exaggerated not to say fanciful view" (p. 232), "grossly overstates the case" (p. 234), "this is an extravagant view" (p. 243), "nothing could be more awry with the facts" (p. 254). Sometimes the misconceptions attacked would seem to have been foisted on the reader rather gratuitously. The method is a good one, however, to throw one's results into high relief.

While written primarily for the layman—specifically for "The Workers' Book Shelf"—the volume contains matter of interest also to special students. The thesis that the President should be thought of as a legislator rather than as an executive is urged acutely and convincingly (p. 27, 115 ff.). Among many sensible observations on constitutional prohibition (pp. 28, 66–27, 94ff.), the hint is conveyed that the Eighteenth Amendment will in time not improbably undergo much the same sort of assimilation to the constitutional system as a whole as parts of the Fourteenth and the Fifteenth Amendments have already undergone (see p. 28). Even better is the criticism visited upon the late Professor Dicey's formula for the apportionment of powers in a federal system: "Whatever concerns the nation as a whole should be placed under control of the national government" (p. 67).

As Professor McBain retorts, "There never was a system embodying a substantial degree of federalism in which the states were deprived of control over all matters that might easily be said to concern the nation as a whole." In other words, federalism is a highly artificial arrangement, and never more so than in the United States today. Elsewhere (pp. 180, 194) occurs an interesting and moderate discussion of the recent decision of the Supreme Court in the Myers case (272 U. S.) in which the Court gave the President *carte blanche* in the matter of executive removals. The attitude taken, however, is perhaps a little too complacent. As Professor McBain has earlier remarked, "To conceive the President as the general manager of a vast administrative organization with his hand of control resting day by day upon all of its ramifying parts is to imagine a vain thing" (p. 119). Yet this is very much the way that the Court's opinion in the removal case does conceive the President.

At other points Professor McBain has been less successful in his onslaught upon current fallacies and has himself fallen into some confusion. The contention (p. 15) that the unwritten British constitution "is due less to peculiar institutional genius than to historical accident" appears to confound the question of form with that of content. The assertion (p. 39) that "What the national government elects to do it may do legally"—the Supreme Court being an organ of the national government—is wilfully paradoxical; while the contention (p. 40) that federalism is not vanishing "or even weakening" in the United States in any marked degree seems to be substantially contradicted on other pages (pp. 56–59). Nor is the distinction drawn (p. 74) between provisions of the bill of rights which arm the individual against the government and those which arm him "for the defense of his rights against the rights which the government attempts to assert in behalf of individuals" more than precariously based upon an indefinite conception of "rights." On which side of the line, for instance, would Professor McBain classify a decision overturning an act of the legislature which attempted to cancel existing debts?

A few factual errors may be noted. The doubt cast upon the inquisitorial powers of congressional committees (pp. 29–30) is not substantiated by the decision in McGrain *v.* Daugherty (273 U. S.). The statement (p. 32) that a statute is for purposes of judicial interpretation "completely severed" from the record of investigations of records and debates attending its enactment overlooks such cases as Board of Trade v. Olson (262 U.S.). The assertion (p. 50) that New York

could not ban the sale of meat packed under unsanitary conditions in Chicago ignores such cases as Plumley v. Massachusetts (155 U. S.) and Smith v. St. Louis and S. W. R. Co. (181 U. S.). The implication (p. 96) that writs of assistance were legal in 1761 fails to take account of English cases during the years immediately following (see Broom, *Constitutional Law*, pp. 522–609). The statement (p. 199) that "there is ordinarily no smooth sailing to a two-thirds vote in the Senate" for a treaty is contradicted by the statistics (see Wright, *Control of American Foreign Relations*, pp. 252–253). Mr. Wilson's famous fling at "a little group of willful men" was made in 1917, not "toward the end of his office" (p. 225). The Oregon minimum wage law was not overturned (p. 242), but sustained, in 1917 in consequence of the tie in the Supreme Court. The assertion that the famous Sugar Trust case (156 U. S.) was "abominably presented to the Court by the Department of Justice" is at least rendered doubtful by Justice Harlan's dissenting opinion, where the controlling elements of the problem before the Court are fully recognized. On p. 276 Professor McBain cites Mr. Horace Davis' *Judicial Veto* for its presentation of the "opposing view" as to the intentions of the Framers regarding judicial review. Mr. Voliva of Chicago also presents the opposing view regarding the rotundity of the earth. The fact that there are people who insist on debating it does not necessarily prove that a matter is debatable.

The book is written with spirit and zest. One or two errors of diction have crept in. On p. 8 the word "obstreperous" is used in the sense of refractory, and on p. 153 "flaunted" should obviously have been "flouted."

EDWARD S. CORWIN.

Princeton University.

The Business of the Supreme Court; a Study in the Federal Judicial System. BY FELIX FRANKFURTER AND JAMES M. LANDIS. (New York: The Macmillan Company. 1927. Pp. x, 349.)

The so-called "Judges' Bill" of 1925 effected, on the Supreme Court's motion, an epoch-making curtailment of its jurisdiction, and, over the protest of a few distinguished lawyers, made the exercise of its reviewing powers discretionary with the Court rather than a matter of right in the large bulk of the cases coming before it. This milestone in the Court's history has made such an interpretation of development as Professors Frankfurter and Landis have given us not

only timely but necessary for understanding a problem of which we have doubtless not yet heard the last. The burden of their lucid and thorough exposition is that the quality of the justice administered in any community is directly related to the way in which the community's adjudicating agencies do their work, and to the character and volume of the work which they have to do. The authors have outlined the legislative provisions and judicial rulings which have determined the scope of the Court's jurisdiction throughout its history, and have analyzed the play of circumstance and opinion which has led to abortive or successful efforts to adapt its organization and work to political and administrative necessities. But the Supreme Court is not isolated; as a part of the federal judicial system, its work is bound up with, and its appellate jurisdiction is fed by, the other courts belonging to that system; and consequently much that relates to the organization and business of the latter is inevitably included. The history of the old federal circuit courts, and their relation to the district courts, the difficulty about appeals from the latter to the former when, as often happened, both courts were held by the same judge, the relegation to the state courts until 1875 of suits to assert a federal right when there was no diversity of citizenship between the parties—these and other interesting aspects of the history of the federal judiciary are canvassed with exhaustive thoroughness of detail and citation. But the material has been selected with dominant reference to the central theme, so that much is not touched upon which would be essential to a complete history of the federal judicial system. The book remains, despite interesting digressions, a discussion of the Supreme Court primarily.

"Perhaps the decisive factor in the history of the Supreme Court," say the authors, "is its progressive contraction of jurisdiction" (p. 187). A hundred years ago the Court was still largely a common law court, deciding almost half its cases on points of ordinary commercial or property law. In this respect the comparison which the authors present of the Court's business today with the business of state supreme courts and of the House of Lords is striking. Common law topics had dwindled to five per cent of its business in 1925 (p. 302), as contrasted with over fifty per cent in the House of Lords and over sixty per cent in the supreme court of New York (pp. 304–305). Furthermore, the recent legislation has the effect of excluding from the Supreme Court much of its business relating to the so-called "federal specialties"—bankruptcy, patents, public lands, Indians, and the

like. The effect is to leave the Court almost exclusively confronted with cases involving the distribution of taxing and regulatory authority between the state and federal governments, anti-trust laws, and the state regulation of business enterprise under the police power and the due process clause. This result is in line with the long expressed views of Chief Justice Taft: "The proper and chief usefulness . . . . of the Supreme Court is . . . . to expound the fundamental law, the Constitution. . . . . Any provisions for review by the Supreme Court that casts upon the Court the duty of [making] decisions not of general application and importance . . . . render more difficult its higher function which makes it so important a part of the framework of our government" (p. 259, note). The consequence, as the authors point out, is that the business of the Court is more and more coming to be of a different order from that of all other courts, and one of the largest problems of the future is to adapt it to its unique function of dealing in the last resort with questions which are essentially economic and political rather than legal in the old-fashioned sense of the word.

It is only in recent years, however, that the question of the Court's jurisdiction has been envisaged from this angle. The authors painstakingly summarize the century and a quarter of earlier discussion, rich in racy touches of human interest, when for long the major issue was whether the justices should be compelled to go on leading their "post-boy" life of circuit riding. Then came proposals to facilitate the despatch of business—for the overburdening of the Court and the consequent clogging of its docket date back almost to the beginning—including the device of enlarging its membership and having it sit in divisions, a proposal urged by no less a lawyer than Evarts, and resurrected by the American Bar Association as late as 1916. By 1890 the Court had got so far in arrears that it opened its term with 1,800 cases on its docket at a time when its output of decided cases was in the neighborhood of five or six hundred per term. The result was the act of 1891 establishing the circuit courts of appeals as intermediate appellate tribunals.

The account given of the fate of the various efforts and proposals to relieve the Court of its excessive burdens between the close of the Civil War and the passage of the circuit court of appeals act illustrates one of the outstanding values of this book for all students of political science—the light which it sheds on the processes and quality of American legislation. The thoroughness and detail of this account disclose, as would a similar account of the history of any other im-

portant branch of legislation, the enormous slowness of our legislative process, and the character of the obstacles it must overcome. The device of intermediate appellate courts which was finally adopted in 1891 had been proposed in its essential features in 1864, and had been suggested ten years earlier. More than a quarter of a century was needed to induce action on a comparatively simple administrative question of judicial machinery involving no issue of a dominantly political nature and universally recognized as urgently demanding solution. An even more flagrant example occurred in connection with a number of inadvertent errors in drafting in the act of 1891, the correction of which took twenty years. The evil of careless drafting of legislation and of inadequate consideration of the meaning and effect of amendments, particularly in the House of Representatives, is abundantly illustrated throughout the story. An almost unbelievable instance of legislative jugglery, boldly thwarted by the Court, is described at pp. 199–202.

Perhaps the most valuable contribution, all in all, made by the book is its unique account of the increasing attention given by the judiciary in recent years to the mechanics of judicial administration, as evidenced, for example, in the federal system by the establishment of the Judicial Conference, or annual meeting of senior circuit judges. With the growing appreciation that the quality of the courts' work depends on its quantity and proper distribution, there is coming to be a new realization of the importance of adequate judicial statistics and of the desirability of a reasonably flexible judicial personnel capable of being mobilized to prevent congestion at one point in the system while elsewhere there is an unemployed surplus of capacity. But questions of administration such as these do not remain questions of administration; inevitably they raise issues of policy and of politics. Localism is still too strong to tolerate a "flying squadron" of "judges-at-large" which might result in "carpet-bagging" Nebraska with a federal judge from Louisiana; while the proposal, viewed apparently without disfavor by the authors, to relieve the lower federal courts by devolving the enforcement of federal police statutes on the state courts doubtless harbors still more potent political dynamite. The merit of the authors is that they see these implications. They relate their study of procedure and administration to its controlling background.

JOHN DICKINSON.

Princeton University.

Elements of Constitutional Law. By Ben Albert Arneson. (New York: Harper and Brothers. 1928. Pp. x, 371.)

The author avows a motive in writing this book. He believes that the Constitution is suffering (1) from the worship of overzealous admirers, and (2) from the "unwarranted attacks" of "poorly informed critics." He expresses the conviction that these sapping influences can be counteracted by a "careful study of the Constitution and of constitutional law," providing this study includes an examination of the development, the strength, and the weakness of the Constitution. "If the Constitution has merits, they should be known and appreciated. If it has shortcomings, these should be faced squarely so that proper and constitutional means may be taken to remedy them" (p. 1).

With these conditions in mind, Dr. Arneson has undertaken the task of preparing an "elementary treatise on the law of the American Constitution" which he hopes will serve (1) as a text in "liberal arts courses in constitutional law" and also (2) as a stimulating book for the general reader who may be "interested in delving a little deeper into constitutional problems than does the average description of our governmental machine." With the exception of the first three chapters, which deal with necessary definitions—constitutional changes, the courts, and the Constitution—each of the succeeding chapters (eleven of them) develops some major topic of constitutional law. In describing the character of federal and state powers, the careful selection of examples adds materially to a clear understanding of the subject matter. Not even a dullard need err therein (see pp. 56 ff.). Whether discussing the regulation of commerce, the safeguarding of personal rights, the nature of the police power, due process of law, or taxation, the author never loses sight of his audience. Abstruse questions are elucidated with apt illustrations which ought to make controverted points intelligible to the thoughtful citizen. Adequate definitions are given of terms such as due process, ex post facto, bill of attainder, and the like. Appropriate sub-topic headings in each chapter should keep the casual reader from becoming confused, and the questions answered and the occasional summary of points developed ought to facilitate clear thinking.

It must be confessed that there are statements in the book which, for the student, might have been more useful if authority had been cited. Moreover, a greater use of court decisions could have been made. Only one hundred and thirty-five cases are cited. In no in-

stance are cases utilized to show the process of reasoning employed by the court in reaching a decision. In important decisions dissenting opinions could have been stated to advantage. It is a question of personal opinion as to whether the author might have summarized the different theories of interpretation developed by the court in deciding social and economic questions. In conjunction with cases, the names of judges might have been mentioned.

Dr. Arneson's book cannot be classed among those which idealize the Constitution, or among those which criticize the courts in their interpretation of the constitutional provisions. He pursues a middle course, aiming at impartiality which, in most instances, he attains with signal success. The findings of the court are set forth with unusual exactness. On disputed points little more than the nature of the objections is given. The reader is required to draw his own conclusions from the array of facts set forth. Notwithstanding the criticisms offered, the reviewer is of the opinion that Dr. Arneson has accomplished his task with remarkable accuracy and success. The book is packed with common sense. It should be productive of sound thinking on the fundamental facts of the Constitution and its development.

JOHN P. SENNING.

University of Nebraska.

The General Welfare Clause: A Study of the Power of Congress under the Constitution of the United States. BY JAMES FRANCIS LAWSON. (Washington: 1926. Pp. 388.)

Mr. Lawson sets out to prove that the general welfare clause in Article I, section 8, of the United States Constitution "is, what it purports on its face to be, a general grant of unlimited power to be utilized by Congress in its own discretion for the common defense and general welfare of the United States" (p. 2). The implications of this thesis are, to say the least, startling. It forces the author to discard the judicial utterances of a century; it compels him to abandon completely the doctrine of enumerated and implied powers; and it reduces the Tenth Amendment from the great protector of the rights of the states to a mere repetition, in disguised form, of the power of the people to choose their own representatives in Congress. It is evident that if we are to accept this view, our text-books on government and constitutional law will need complete revision to accord with the new theory of federalism it entails.

Many, of course, will sweep aside the argument with the single adjective, "Absurd!" But Mr. Lawson is by no means so easily disposed of. One cannot read his carefully written chapters without being amazed to find such an imposing array of evidence in support of a theory long ago discarded as untenable. The entire field of legal evidence is utilized in building up his case, and it must be conceded that a powerful argument is presented to prove that the traditional conception of the powers of Congress is a sophistry. He has elaborate evidence to show that the framers of the Constitution frequently expressed themselves in support of his view of the meaning of the "general welfare" phrase. He points out the conditions under which the Constitution was established, and insists that they show the necessity of a strong central government to remedy the evils which were rampant. The text of the clause is carefully analyzed in the light of the traditional canons of constitutional construction, and the reader is left with the impression that the chief argument for the doctrine of enumerated powers rests on the use of a comma rather than a semicolon.

The Tenth Amendment would be a mill-stone about the neck of a less agile commentator than Mr. Lawson. It is pointed out that this provision does not contain any additional enumeration of powers. The most that it does is to establish the powers given to Congress by other sections of the instrument. To say that such a provision gave the Supreme Court a supervisory power over the functions of Congress is to ignore the plain object of the amendment in reserving to the people the right to control those functions through the ballot box. It thus appears that the real objection of Mr. Lawson is to the exercise of judicial review by the courts, and not to the attempt to specify certain powers which Congress should exercise. To clinch his argument, the author surveys the baneful effects of judicial control during the slavery controversy, during the reconstruction period, and particularly under present economic conditions. A national child labor law, a federal statute governing elections, uniform civil and criminal laws, a national conservation program, uniformity in marriage and divorce legislation, are among the outstanding necessities which the judges are accused of snatching from us.

It would require an elaborate treatise to present an adequate answer to the argument set forth by Mr. Lawson. Pending the opportunity to prepare such a treatise, two exceptions can certainly be taken to his assumptions. In the first place, the majority of the quotations

presented as evidence of opinion on the part of the framers of the Constitution, statesmen, and jurists, are merely dicta thrown incidentally into the body of a discourse on another subject. As a lawyer, the author is, of course, quite aware of the essential difference between dicta and decision (see p. 31), but his whole case is built upon the failure to recognize that a similar distinction need not be made in any other writings than judicial opinions. As a matter of fact, however, private letters are usually prepared with considerably less care in hewing close to the main line of the discussion than are judicial utterances, and for that reason should be used with even greater care.

The second assumption of Mr. Lawson which seems unwarranted, and which he does not attempt to prove, is that the judicial control of congressional power would be somewhat different if the courts were to hold that our national legislature could make any laws for the "general welfare." The history of the due process clause is quite the other way. There is abundant evidence to show that the more general the clause, the greater the room for judicial expansion. In short, judicial constitution-making seems inevitable in the United States, and it may be seriously questioned if the line between national and state powers would have been materially different if the general welfare clause had not been limited to financial powers.

The argument presented is by no means the only interesting feature about the book. Not to be baffled by the persistent refusal of conservative publishers to venture its publication, the author, with the aid of his wife, set the type, printed the pages, and published the volume. There are remarkably few mistakes for a work published without the aid of professional proof-readers, and, taken all in all, the author is to be congratulated on the physical appearance of his handicraft. There is a good table of cases, but the absence of an index is extremely unfortunate in view of the fact that the volume contains such a wealth of relatively inaccessible material of great value for reference purposes. It is to be hoped that Mr. Lawson's work will have a wide distribution, for there are some splendid passages in it, and the argument which it presents should prove a powerful check upon the prevailing tendency to worship the great god Legal Logic. No one can read the volume without feeling that there is urgent need for some other method of solving our social difficulties than that of splitting hairs over the meaning of words.

RODNEY L. MOTT.

University of Chicago.

The Insurance Commissioner in the United States: A Study in Administrative Law and Practice. By Edwin Wilhite Patterson. (Cambridge: Harvard University Press. 1927. Pp. xviii, 589.)

This volume, initiating the Harvard Studies in Administrative Law, selects the insurance commissioner as a convenient point of attack on problems of administrative law and procedure. Its significance lies, not in its relation to actuarial science, but in its very important contribution to law and practice in public regulation of business conduct.

The enormous range of statutory provisions and judicial decisions which were examined in preparation of this study has been organized in four main sections, dealing, respectively, with the organization and personnel of the insurance commissioners, the scope of their control, their administrative methods, and the control of their activity, both judicial and non-judicial. The book is a mine of hitherto uncollected material illustrative of major problems in the field of administrative law. No one who is interested in such matters as administrative discretion, licensing and revocation of licenses, inquisitional powers, notice and hearing, administrative and judicial enforcement, and administrative regulations can fail to spend many hours with this volume. Professor Patterson's interests are wide, however, and much of his subject-matter will interest the student of public administration, who, while fundamentally concerned with managerial problems, can never quite abandon enthusiasm for observing the efficient adjustment of law to the conditions of modern industrial and urban life. Professor Frankfurter rightly points out in his general introduction that in administrative law we are dealing with law in the making, with fluid tendencies and tentative traditions; and, further, that administrative law is markedly influenced, not only by the specific interests involved, but also by the characteristics of the responsible administrative agency.

Often at the conclusion of his formal address, a speaker will chat informally with a small group from his audience. So Professor Patterson, having concluded his major study, pauses at the end in a reminiscent mood and writes of some incidental matters of first-rate importance. Among other things, he summarizes his observations on insurance legislation. He finds that it is characterized by a lack of sense of proportion and emphasis, that it tends to be standard-creating rather than abuse-correcting, that it "conforms" actuarially, that it displays hostility to foreign corporations. "Many of the insurance enactments display a profound ignorance that there is any

such thing as administrative law." Artistic draftsmanship was found to be a rarity.

Professor Patterson's observations on insurance officialdom are equally informing. "The commissioners have no settled views, or very few, as to their administrative practices." His questions relating to administrative procedure "evoked surprise, even a politely concealed impatience." The Illinois superintendent seemed "unable to understand what I was driving at," and was obviously chiefly concerned with an impending election in the city of Chicago. The deputies impressed the author as "satisfied bureaucrats."

These matters are, however, incidental and should not be allowed to obscure the importance of Professor Patterson's introduction to administrative law and procedure. The book is of permanent value, quite irrespective of the incessant flux of insurance legislation, and it will be of continuing significance in focusing attention on a neglected phase of public regulation.

LEONARD D. WHITE.

University of Chicago.

The Invisible Government. BY WILLIAM BENNETT MUNRO. (New York: The Macmillan Company. 1928. Pp. 169)

In this volume are collected a half-dozen lecture essays. Four were delivered on the Jacob H. Schiff foundation at Cornell University in 1926 and two at Pomona College in 1927. Several of them have already appeared in leading periodicals. They make no attempt at a systematic treatment of the subject of "invisible government," but they all relate to forces or influences which affect, from the outside, the formal processes of government. Their quality is primarily literary.

The first essay, "Fundamentalism in Politics," which was originally published in the *Atlantic Monthly* under the title, "The Worst Fundamentalism," is the best piece of popular writing in the field of politics which has appeared in a generation. Many of us, weary of the hokum of politicians and the false profundities of the schools, positively writhed with joy at our first reading of it. It is witty, pungent, realistic. None of the other essays is quite as happy, but all are stimulating. There is nothing new in any of them except their point of view; but that is enough. They are not works of erudition but of criticism—popular criticism. The clarity of Professor Munro's thought, his grip on actuality, makes them worth reading. His incisive trick of phrase

makes them easy to read. He tears the veil from a hundred shams in the course of these one hundred and sixty-four pages. The reader cannot help but enjoy this destruction of unfounded traditions, false idols, empty shibboleths. One of the most suggestive of the essays is a defense of the money power in politics; another exhibits the sectional character of our political divisions; still another explodes the myth of popular sovereignty.

It cannot be said that Professor Munro has anything to offer as substitutes for the things he destroys. The final effect is destructive, not constructive. It is, nevertheless, a joyous bit of iconoclasm. No one is going to agree with all of it. There is none of it, however, which all cannot enjoy, except of course the solemn pundits of every faction whom the dislocation of their favorite formulas must naturally distress.

THOMAS H. REED.

University of Michigan.

Party Principles and Practical Politics. BY STUART LEWIS. (New York: Prentice Hall, Inc. 1928. Pp. xii, 523.)

It seems to be the consensus of opinion among politicians that books written by college professors on the subject of politics and political parties are highly theoretical, academic, and of no value because they are not "practical." Politics, they say, is a game which cannot be learned in books. The college graduate who would go into politics must first, if he accepts their advice, forget all that he has learned in books. These criticisms are a severe condemnation of the usual courses on political parties, especially in so far as they may be designed for the budding politician. There is undoubtedly much justification for the scoffing of the "practical men." Politics as described in the books is often at wide variance with politics as actually practiced. What is needed is a more realistic treatment of the subject by persons who have had first-hand experience, and who are able to analyze and describe the forces and the technique. Several of the text-books on political parties have, as a matter of fact, been written by men with long experience in politics; but these have not been read by the professional politician.

A course on political parties should stimulate the interest of the student in politics; it should provide him with an intimate grasp of the technique, an understanding of the underlying forces, as well as a familiarity with the machinery and institutions; and it should describe

in detail the arts of the politician, the qualities and methods of political leadership, the psychological appeals in campaigns, the use of formulas and magic words, and all the tricks of the trade. Such a course would afford valuable and "practical" training for the embryonic politician, and would be of almost equal value to the person without political ambition who desires to understand what is going on behind the scenes.

Professor Lewis' book is advertised by the publishers as a "practical" treatment of the subject by one who has witnessed the actual mechanics of politics, and the reader is led to expect a realistic and intimate account of the subject. Unfortunately, this promise is not fulfilled. There is nothing from cover to cover which might not have been written by one with only a few first-hand contacts in the field of politics.

In typical text-book style of a previous decade, the first chapter is devoted to a definition of the political party. It would seem that the average college student might be credited with knowing at least what a political party is. If he does not, the following definition would not help: "A political party, therefore, is an organization sponsoring at the polls candidates who are recognized as favoring certain principles, adopting certain policies, and having support from the electorate" (p. 3). The cynic might well ask what principles the Democratic and Republican candidates were recognized as favoring in 1926.

Ten chapters out of a total of twenty-five are devoted to a history of parties. Many teachers would criticize the use of this much space for historical material. An account of the most significant political battles, the sectional and economic alignments, the political leadership of such men as Jefferson, Jackson, Lincoln, Roosevelt, and Wilson, which would offer a background of the political parties of today and a better understanding of practical politics, would be of great value to the student. Nothing of the sort is to be found in these ten chapters. The pages bristle with names, while significant factors that would throw much light upon the history of parties are omitted. The reader is not permitted to escape without being told that Richard Rush was nominated for the vice-presidency by a convention in Harrisburg in 1826, that the Abolitionists nominated Thomas Birney for president in 1844, and many similar facts which do not matter. Numerous errors are to be found in the historical chapters. It seems strange, indeed, that "When President Taft called Congress into special session in 1913 to revise the tariff, little could the Democrats, who had

an adverse majority of 42 against them in the House and were outnumbered almost two to one in the Senate, have realized that they were on the threshold of victory" (p. 120). Ohio did not refuse to amend her constitution to remove the word "white" from the suffrage qualifications in 1910 (p. 162), but in 1912. The grandfather clause was adopted in North Carolina, not in 1907 (p. 161), but in 1900. Nor is it accurate to say that "the negro had no desire for suffrage (p. 160). There were not two political parties (in the correct meaning of the word) in the constitutional convention of 1787 (Chap. IV.).

The convention and the direct primary are treated in two chapters. The state laws on the direct primary are well summarized in certain particulars, but nothing is said of the grave abuses and the boss control which developed under the convention system. The chapter on party organization scarcely mentions the chairman of the national committee, or the precinct captain. It would seem that these offices merit at least some attention.

A great deal of useful information is presented on campaign expenditures. The chapter on corrupt practices contains a valuable summary of the statutes of the several states, but no discussion of the problem in general terms. Proportional representation and preferential voting are unfortunately treated together, and are not clearly distinguished. Throughout the book, facts, names, and dates are marshalled and presented for consumption by the student, but seldom is the matter at hand analyzed and discussed in an informing manner. Such interest as the student might have had in political parties would surely be stifled before the last chapter was reached.

JOSEPH P. HARRIS.

University of Wisconsin.

Public Expenditure: The Present Ills and the Proposed Remedies. By HAROLD W. GUEST. (New York: G. P. Putnam's Sons. 1927. Pp. xiv, 217.)

The purpose of this book is to make the point that public expenditures must be considered in the light of the modern disciplines of psychology, sociology, and ethics. Quoting from Veblen, the author states that what is needed is "a perpetual rationalized, calculating revision, so that each article of usage, appreciation, or procedure must approve itself *de novo* on hedonistic grounds of sensuous expediency to all concerned at every move. . . . . " In arriving at his destination the following argument is followed: "The constantly

increasing volume of public expenditures, although not an evil in itself, does constitute a problem of considerable magnitude. A study of the behavior of voters and of members of legislative groups with respect to their thought and action on questions of public expenditure reveals the fact that habit and impulse are the governing forces for the most part. As a consequence, action on questions of proposed outlay is not determined by critical reasoning, critical as to premises as well as to processes, and progress therefore tends to become a cause of public expenditure rather than a result. That it should be both goes without saying. Standards of expenditure, in so far as they definitely exist at all, are built upon the principles and expressed in the terms of individual pecuniary success. This clouds the fact that group values are more than the sum of the valuations of the individuals comprising the group. In order, then, that progress may be intelligently purposive and yet reach its expression through the machinery of democratic government, it is highly essential that the standards of public expenditure shall be formulated with reference to the larger group values rather than according to the narrower individual points of view. Furthermore, conformity to these standards cannot be secured through mere negation of democratic government and through ingenious administrative devices, but must be sought along the painful, difficult road of education as a means of bringing about changes in human attitudes and action toward matters of public expenditure."

While this is not a large book (it contains perhaps 35,000 words), one has the feeling that the theme has been unnecessarily extended to hold the covers apart. The extension, however, has been well done, so that the book is easy and interesting reading, though somewhat overloaded with sparkling quotations and erudite footnotes. The quotations are hardly necessary in the hands of one who himself is so facile in turning off well rounded phrases and epigrammatic observations. The authoritative sweep of Professor Guest's dogmatism is tempered by the modesty of his opening and closing chapters. Any one who ventures to make practical applications, in the field of public finance, of the tentative conclusions of modern psychology and sociology is entitled to charitable consideration. It is a needed exploration.

In dealing with the measurements of government service—and this is the crux of the problem, as the author himself states—there is room for a more careful analysis. This might well begin with the

general outline of the field which was advanced by A. E. Buck in the *National Municipal Review* of March, 1924, which seems to have escaped Professor Guest's attention. Mr. Buck states: "Both from the standpoint of better budget planning and the proper evaluation of the functions of government, there are three things that it is desirable to measure. These are as follows: (1) the purchases, that is, the services, commodities, etc., which are bought by the government to carry on its work; (2) the operation of governmental departments and agencies; and (3) the actual results of departmental and institutional service. In other words, these three things have to do, first, with what the government buys; second, with how it uses what it buys; and, third, with what follows or results from the use. We need, therefore, methods for three types of measurements, namely, (1) measurement of purchases, (2) measurement of work, and (3) measurement of results."

The least fortunate part of the book is that dealing with the growth of expenditures, especially the statistical table on page 33 which shows the federal expenditures from 1840 to 1924 corrected by two index numbers—the first of which runs from 1840 to 1890 with 1860 as the year of reference, and the second of which runs from 1890 to 1924 with 1913 as the year of reference. The author is evidently unacquainted with Clarence Heer's *Post War Expansion of State Expenditures* and with Donald Davenport's *Cost of Government, Land Value and Population*, both of which would have enriched his material.

The final chapter entitled "Means of Control of Public Expenditures" recites the well-worn efficiency program, though not in such terms that the uninitiated would profit much from the statement; and it winds up with the need for more intelligence in the electorate, the scientific attitude, eugenics, education, and good citizenship.

This is a good book for collateral reading and seminar use. It makes a valid argument with regard to the social features of government expenditures and raises many points for discussion.

LUTHER GULICK.

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State Security and the League of Nations. By BRUCE WILLIAMS. (Baltimore: The Johns Hopkins Press. 1927. Pp. x, 346.)

The problem of security has been at the center of international thought since 1914, and security from war at the center of attention since the armistice. But the attention bestowed upon it has been

military, diplomatic, political—the attention of the statesman, politician, publicist, rather than that of the scholar. The origin and work of the League of Nations have a central place in the discussion of the problems of security. It is one of the fruits of the passing of the acute phase of the domestic political issues that centered about American membership that we may now have scholarly discussions showing genuine detachment.

Such a discussion is that of Bruce Williams in the Albert Shaw Lectures on Diplomatic History given in 1927 at the Johns Hopkins University. He seeks to "review the attitude of states toward some of the juristic relations set up by the Covenant of the League of Nations," in the hope of throwing "some light on the future development of the international legal order" (p. 120).

After a judicious and penetrating survey of the legal concept of the fundamental right of states to existence, the discussion turns principally upon Articles 10 and 16 of the Covenant—their meaning, efforts at interpretation, amendment, and future prospects. Efforts to amend and interpret the articles, and the positions "assumed by certain states toward the nature and scope of the obligations contained therein was not such as to reassure the members of the League primarily concerned with the problem of security. In fact, the outcome of the whole proceedings had emphasized the indefinite character of the guarantees provided in the Covenant, and had revealed the difficulties of organizing through the existing machinery of the League a definite scheme of mutual assistance. . . . . The activity of various states during this period in seeking special alliances outside the League was sufficient evidence that the provisions of the Covenant were considered inadequate as security measures, and that specific guarantees and determinate forms of assistance were still the considerations uppermost in many quarters" (pp. 151–153). The failure to find security within the Covenant also blocked the pathway to disarmament.

Inability to find a satisfactory elucidation of the actual phrases of the Covenant led to the Draft Treaty of Mutual Assistance. That instrument represented an effort to expand the principles embodied in Articles 10 and 16 and make them concretely effective. The Covenant assumed the transference of the concept of penalties for violation of rules from the national to the international sphere, but it did not provide for its detailed application. The Draft Treaty was designed as a partial solution of that problem of detailed application.

It proposed to increase the authority of the Council, which was to "render a decision whether the crime of 'aggressive' war had been committed" (p. 178). It emphasized, to the fullest extent in League history, the reliance upon material guarantees of state security, and envisaged a series of partial treaties among the security-seeking states. For many reasons, chief among them unwillingness of several member states to assume greater or more explicit obligations than those involved in the Covenant, the Draft Treaty failed to secure recognition as an adequate answer to the security problem, and it was shelved. The Locarno agreements subsequently embodied the principle of mutual assistance, but the Locarno agreements "are confined to a region of the manifestly common interest of the states concerned" (p. 232), and they involve, furthermore, the principle of compulsory arbitration.

After the failure of the Draft Treaty of Mutual Assistance, the emphasis shifted from material sanctions, and effort was concentrated on the development of peaceful procedure and on advancing the reign of law in the community of nations. The Protocol for the Pacific Settlement of International Disputes was the result. Its general object was the abolition of aggressive war; its methods, the stimulation of acceptance of the compulsory jurisdiction of the International Court of Justice and the development of the principles embodied in Article 15 of the Covenant. It also sought to identify automatically the party guilty of aggression. But the British government was unwilling to accept it.

The Protocol failed partly because international jurisdiction seemed to threaten domestic jurisdiction. "The adjustment of this problem of the category of interests which should be left to the reserved domain of states, and those which are the proper subjects of international control, presents the real test of the capacity of nations to effect a peaceful ordering of their relationships" (p. 243).

Professor Williams has written in a constructively critical spirit, with admirable detachment and a sure sense of proportion. The foreground is brought into perspective by a sound knowledge of the history of international law and a sane political philosophy. The writing is marked by clarity of both reasoning and expression. The book is heavily documented, both in the text and in annexes. It is a fruitful and welcome addition to scholarly comment on the implications of the League of Nations for the creation of an orderly international society.

HENRY M. WRISTON.

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American Foreign Policies: An Examination and Evaluation of Certain Traditional and Recent International Policies of the United States. By JAMES WILFORD GARNER. (New York: New York University Press. 1928. Pp. viii, 214.)

This book by a seasoned student of international relations is by no means flattering to recent American foreign policy. The evidence adduced suggests that the United States, since the World War, has pursued a policy of short-sighted and selfish non-coöperation, mingled with frequent discourtesy and continuous aggressiveness against the weak. The method used is quotation, narrative of historical incidents, and comment always moderate in tone. Professor Garner does not intend to draw invidious comparisons between the United States and other countries. He is fully willing to admit that others have had their faults, but in this book he is especially engaged in judging the conduct of the United States by the standard of high idealism so often expressed by American statesmen.

Among the factors influencing our policy, especial attention is given to the hyphenated population and to the Senate's influence on treaty-making which frequently leads to "utter weakness, muddle and delay." The tergiversations of isolationism are discussed with the hope that the numerous departures from it in practice may gradually weaken its hold upon the public mind. The chapter on "Imperialism and Dollar Diplomacy" narrates a career of conquest, usually veiled under moral phrases, as in McKinley's famous remark to a group of Methodist clergymen that he prayed for light on the Philippine question and finally got it in the words "Christ also died for them." The writer notes that the President failed to mention to this group the report just received from Admiral Dewey on the strategic and economic advantages of the islands.

The Monroe Doctrine is considered of extremely doubtful value, in view of the attitude taken toward it by Latin American countries. The American professions in regard to arbitration are set beside an imposing list of cases where arbitration was suggested by a foreign power but refused by the United States. The extraordinary hesitancy of the United States to make arbitration treaties that mean anything and the extent to which it has lagged behind most of the European countries in this respect since the war are also set forth.

The problem of American relations to the League of Nations a treated historically, with attention to the partisan, traditional, ndis other factors which finally led to America's rejection of the Covenant.

The concluding picture of the present American position in foreign affairs is a gloomy one. We have moved in "sullen and cynical indifference," to use President Butler's phrase, caused "by the drowsy syrups of prosperity." The author hopes it is not too late for the government to arouse itself to a more noble, as well as a wiser, policy.

Though one must recognize the book as primarily the expression of an attitude, nevertheless it contains a great deal of solid food for thought. It usually states the position of the opposition fairly, and the tone is always restrained. In giving the grounds for a particular attitude on foreign policy in such a substantial manner, the distinguished author has done a useful service. Whatever opinions one may have, he will profit by reading this book.

QUINCY WRIGHT.

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BRIEFER NOTICES

AMERICAN GOVERNMENT AND CONSTITUTIONAL LAW

Considering that one-tenth of all bills and resolutions passed by Congress are agreed to by conference committees, and that this tenth includes practically all of the really important measures, it is strange that the conference committee as a piece of legislative machinery has not received more attention from writers on American government. The need for a systematic treatment of the subject has lately been met by an excellent monograph, *The Congressional Conference Committee*, by Miss Ada C. McCown (Columbia University Press, pp. 274). The origins and historical development of the device are brought into view; its workings in certain notable instances, e.g., the tariff conference of 1883, are described at length; and a chapter is devoted to comparing the congressional conference committee system with the methods of adjusting differences in France. The book is well documented, though there is no formal bibliography.

A recent addition to the series of Studies in Administration published by the Institute for Government Research in Washington is entitled *The Legal Status and Functions of the General Accounting Office of the National Government* and written by Dr. W. F. Willoughby (Johns Hopkins Press, pp. xii, 193). The important political, legal, and administrative problems arising from the unique position of the General Accounting Office as an agency exclusively controlled by and responsible to Congress are discussed in fourteen chapters. In the

last of these, constructive suggestions are made for clarifying and strengthening the position of the Office, and the codification of the laws affecting its work is urged.

Those who are interested in one of the most controversial topics on American government will find a large number of arguments to support their own individual views, whatever they may be, in *A Federal Department of Education* (pp. lxii, 357), edited by Julia E. Johnsen for the H. W. Wilson Company. Like other numbers of the Handbook Series, this volume includes an exhaustive affirmative and negative brief on the subject, a lengthy bibliography, utterances of public men, and articles both for and against the establishment of a federal department of education.

The Legal Status of Agricultural Coöperation, by Edwin G. Nourse (Macmillan, pp. xix, 555), one of the latest volumes in the Institute of Economics Series, illustrates the interplay of economics, legislation, administration, and judicial enforcement and interpretation, and is of value to students of constitutional law, federal government, and administration as well as to economists. Of special interest are the chapters on "Federal Action with Reference to Coöperation," "Restraint of Trade under Recent Coöperative Marketing Acts," and "Class Legislation and the Rule of Reason."

The Institute for Government Research has recently issued, as No. 48 in its series of Service Monographs, a volume on *The Office of Indian Affairs* (pp. 591), by Laurence F. Schmeckebier. The book covers, with great completeness, the history, organization, and activities of this office, but does not go into all the controversial questions. Chapter II of the book will prove especially useful to students of governmental functions.

Albert Perry Brigham's *United States of America* (Oxford University Press, pp. 308) contains a series of interesting and significant essays on various phases of American geography, or, one might say, on the relations of geography to economics, government, education, and the national life in general. Two of these, entitled "The Statehood Complex" and "National Unity," are especially suggestive.

Among recent additions to available elementary text-books in civics is a volume on *American Citizenship* (pp. 367) by Messrs. C. P. Patterson, A. W. Evans, and J. P. Simmons, published by Rand, McNally and Company.

A new edition of C. Ellis Stevens' *Sources of the Constitution of the United States* (pp. xii, 313) has been published by the Macmillan Company. The book has been out of print for some time, and the new edition has been much needed.

Foreign and Comparative Government

Henry Holt and Company have published an American edition of B. G. DeMontgomery's *Issues of European Statesmanship* (pp. viii, 367), probably on the theory that the American public has often shown that it likes to be lectured at by "English visitors" and ought to enjoy a little moralizing about the state of the world from the point of view of an English Tory. After a Brahminical bow to the classic "Theories of the State" as presented to undergraduates at Oxford and Cambridge, we are led by the hand across Europe in search of "The Object of the State." The moral is Mussolini—with a foot firmly planted on bolshevism in Italy, and imitated more or less well by less ideal (more democratic) governments. Although the subsequent observations on the criteria of state interference are somewhat dogmatic on arguable points, and distressingly brief on others, the book is marked by some very trenchant thinking. The difficulties with the proposals involved lie usually rather in the assumptions than in the logical exposition. Mr. DeMontgomery's values are throughout about those of *The National Review*. His examples of the breakdown of pluralism and the various socialisms are widely, if somewhat tendentially, chosen. When he turns to the statesman's duty abroad, after upholding national sovereignty as against a League super-state, and as against the Geneva protocol for compulsory arbitration, he affords some interesting commentaries upon the Tory attitude toward the League, Locarno, etc., which have since been amplified by Sir Austen Chamberlain and Lord Cushenden in practice. Christianity is appealed to in conclusion to save us all from materialism.

Das parlementarische Wahlrecht (Berlin: Zentralverlag, pp. 96), by Hans Anton Bernhard, is unique. It undertakes a comparative analysis of the electoral laws of forty-nine states, starting with Egypt and ending with the United States, thus including practically all the more important countries of the world. Such a descriptive survey loses, unfortunately, most of what it gains *in extenso* through the inevitable sketchiness of the treatment. Nevertheless, the descriptive part is preceded by a brief discussion of the principles involved in such a "comparative" essay. Unfortunately, the analysis is somewhat

marred by a lack of appreciation of the difference between the two kinds of representative government, the parliamentary in the strict sense (England) and the presidential (United States). The author does not take this fundamental distinction into sufficient consideration, it seems; for the influence of this difference upon electoral systems is considerable. But notwithstanding this rather fundamental shortcoming, such a world-wide account of electoral practices will afford instructive suggestions. Since Mr. Bernhard has given fairly well selected bibliographical references for each country, as well as for the general problem, this sketch ought to become a font of "learning" for politicians and encyclopedists.

Some years ago the Department of Historical Research of the Carnegie Institution undertook to collect and to publish all the proceedings of the British parliaments that have a significance for the colonial history of North America and, what is more important, all the notes, minutes, and memoranda that make a part of the same record. To carry out this task it has been necessary to search widely and persistently, not only in printed materials, but also in manuscript sources. The first volume in the series came from the press in 1924; the second appeared early in 1927, and has been published under the title of *Proceedings and Debates of the British Parliaments respecting North America*, edited by Lew Francis Stock (pp. xiii, 564). In the earlier volume the editor was able to cover an extensive period, the years 1552 to 1688; but toward the end of the seventeenth century the interest of the legislator in colonial affairs took on a rapid growth, and the researches for the second volume had to be limited to the reign of William III (1689–1702). It is not necessary to argue the proposition that a series of this sort will be of inestimable value to the study, and to the student, of colonial history and institutions; even the slightest examination of the volumes thus far published produces a conviction that here is an undertaking that is eminently worth while. L. M. L.

Reminiscences of Englishmen who have been in public life generally make pleasant as well as instructive reading. *Life, Journalism, and Politics* (Stokes, 2 vols., pp. 245, 226), by J. A. Spender, editor of the *Westminster Gazette*, is no exception. The author's career began shortly before the South African war, and the book covers various topics down through 1926. In an interesting chapter on "Politics and Progress" Mr. Spender reaffirms his faith in Liberalism and also

expresses the opinion that the "master problem of our times" is to "harness opinion to knowledge and steady the emotions of the multitude with experience and science." "More and more one's mind revolves around the problem, and I think I see some light in an analogy from the law courts. There, when counsel have presented their cases, there is a judge to sum up, to simplify the issues and present them fairly to the jury. In politics there is nothing between counsel and jury." To fill this gap, the author suggests as "a regular part of the machinery of government a permanent body, railed off from politics, with the best brains at call, whose definite business it shall be to issue periodic reports on the economic condition of the country, and to bring all possible light to bear on proposals immediately before it"—in other words a plan similar to that of another scholar in journalism, Walter Lippman, as outlined in *Public Opinion*.

Three books about India have been received of which the most important is a study of the *Relations of Indian States with the Government of India*, by K. M. Panikkar (Martin Hopkinson and Company, pp. 169). This volume deals with such topics as the history of the native states, the growth of central power, intervention in internal affairs by the government of India, the rights of sovereignty, and the constitutional position of the native states. The author's idea of development is for the native states to become "internally autonomous states . . . . united under a strong central government." The second, *India Tomorrow*, by Khub Dekta Age (Oxford University Press, pp. 87), is of special interest at the present time because it analyzes some of the problems that will come before the 1929 commission which is to consider the government of India and presumably change it. Dhan Gopal Mukerjii, in *A Son of Mother India Answers*, replies to Miss Mayo's indictment of his country, in a little book (pp. 112) published by E. P. Dutton. Two other books on Far Eastern affairs are *Social Currents in Japan*, by Harry Emerson Wildes (University of Chicago Press, pp. 391), and *China—Where It is Today and Why*, by Thomas F. Millard (Harcourt, Brace, pp. 350). The former is based largely upon a study of newspapers, both native and foreign, and shows the rôle which press and propaganda can play in politics. The latter is a popular account of present-day conditions in China, with emphasis on such problems as relations with Japan, extra-territoriality, foreign interests, Shanghai, and the policy of America in regard to China.

A somewhat revised edition of Sir John A. R. Marriott's *Second Chambers* (Oxford Press, pp. vi, 250) has recently been issued. As in the first edition, the greater part of the volume deals with the House of Lords and the second chambers of the Dominions. The American Senate and the French Senate receive less than twenty pages each, and the upper houses of Germany, Switzerland, and other states are disposed of in a few pages, a paragraph, or a sentence. The usefulness of the book is, therefore, distinctly limited, and, except for the Parliament Act of 1911, recent developments in the structure and functions of second chambers are discussed very briefly.

The memories and observations (1914–1918) of Thomas Garrigue Masaryk as set forth in his book entitled *The Making of a State* (pp. 518) furnish a personal record of the multitudinous activities and plans of the first president of the Czechoslovakian republic. Perhaps the greatest value of this book lies in the fact that it gives us the exact viewpoint of this eminent statesman on many matters of foreign and domestic policy, and also on questions of pure political theory.

Ce Qu'il Faut Connaître du Fascisme, by Paul Lombard (Boivin & Cie., pp. 160), is in the main an account of the fascist movement in Italy, with especial reference to its disagreeable attitude toward France. The author contends that fascism belongs to Italy alone and decries the possibility of its gaining a foothold in France. "*La France, peuple majeur, est a mille lieues de ces attitudes théâtrales.*" He cites attempts to introduce the ideas of fascism to his countrymen, but declares, "*Pour la France, le fascisme fait déjà parti du passé.*"

Documents of Russian History, 1914–1917, by Frank Alfred Golder (Century Company, pp. xvi, 663), contains a good deal of information which is valuable for those students of European government who desire a more complete understanding of the political developments leading up to the accession of the Bolshevists to power. The selections include, for example, letters, speeches, extracts from diaries and public documents, on government by the Emperor, the relations of the Duma and the Soviets between March and November, 1917, the first and second All-Russian Congress of Soviets, the Congress of Soviets of the Northern Region, and preparation for the Bolshevist revolution.

Emil Ludwig's two new volumes are a most welcome contribution to the field of historical biography. *Bismarck* (Little, Brown and Company, pp. 661) has already received its share of acclaim and

praise. To enjoy the book thoroughly, at least some knowledge of the period is necessary. The second volume, *Genius and Character* (Harcourt, Brace and Company, pp. 346), contains short sketches of various eminent personages, half of them political, half literary, figures. These include Frederick the Great, Rhodes, Wilson, and Rathenau.

A History of South Africa, by Eric A. Walker (Longmans, Green and Company, pp. xii, 623), is a most thorough, minute, and scholarly record and interpretation of events in South Africa from the earliest times down to 1924. The author has tried to be impartial, a most difficult task, and he has the ability to turn a happy phrase which here and there enlivens the steady outpouring of the stream of facts. The book has an excellent bibliography.

The third volume in the introductory history of the British Commonwealth, published by Messrs. G. Bell and Sons, has come to hand. Like the two preceding books in the series, it is entitled *State and Commons* (pp. 164), but in continuation of the earlier volumes it covers the period 1832-1921. The author is S. S. Cameron.

INTERNATIONAL LAW AND RELATIONS

A History of American Foreign Relations, by Louis Martin Sears (Crowell, pp. xiii, 648), is a readable survey of American diplomacy which relies somewhat more on secondary works than do some similar text-books. Though there are two references to *Die Grosse Politik*, and many to American sources, most of the footnotes refer to the standard biographies and monographs, most of which seem to have been consulted. The treatment is chronological and on the whole well-proportioned, and the volume has been written "with a conviction that the text-book should be a guide rather than a dictionary, that the establishment, on sufficient evidence, of a point of view, is of greater import than the recounting of innumerable incidents of vastly varying importance." Where so much that is interesting is packed between two covers, it may be ungracious to ask for more. Yet the account of the fisheries negotiations in 1782 and 1818 (pp. 33, 156, 164) does not make sufficiently clear the vital distinction between the inshore and the offshore fisheries. No mention is made of the attitude of the southern Whigs toward expansion. And the chapter on Wilsonian diplomacy in the years 1913 to 1917 contains no reference to Colonel House or to the secret treaties between the Allied Powers. A considerable

number of errors may be corrected in a second edition. Incorrect dates are given for the treaties of Morfontaine and San Ildefonso (p. 92), the embargo of 1794 (p. 113), the attack on the *Wyoming* (p. 336), the death of King Kalakaua (p. 415), and the treaty of Ancon (p. 568). Pinckney's treaty was not "signed within one day of Jay's at London" (p. 67). Better proof-reading would have prevented the mis-spelling of the names of Pombal (p. 24), Alamán (p. 240), Von Diederichs (pp. 441, 647), and Bernstorff (p. 552). The line of 31° (p 46) was not the southern boundary of West Florida. If Canning's American policy had "contemplated a firm stand for the forty-ninth parallel to the Pacific as the southern boundary of Canada" (p. 187), the Oregon boundary dispute might have been settled in 1827; but he rejected that line when Gallatin proposed it. It is not true that the "American government never assumed" the payment of debts due British merchants (p. 39); that Randolph's first instructions to Jay—correctly stated on page 66—stipulated "an abandonment of impressment" (p. 68); that "Godoy agreed in the treaty of San Lorenzo to all the American contentions" (p. 76); or that John Quincy Adams "accompanied his father on the mission to England" (p. 145). "Battle cruisers" are confused with cruisers (p. 579), and the restriction of cruiser armament to guns of eight inches or less is not noted (p. 570). The incorrect statement that Marcy refused adherence to the Declaration of Paris "on the ground that it failed to recognize the principle of 'free ships make free goods'" (p. 286) indicates a failure to distinguish between the immunity of private property from capture at sea, which Marcy proposed, and the principle that "free ships make free goods," which the Declaration of Paris enunciated. J. P. B.

Diplomatic Episodes in Mexico, Belgium, and Chile, by Henry Lane Wilson (Doubleday, Page, pp. xvii, 399), is based on Mr. Wilson's experiences during the period (1897–1914) when he represented the United States as minister to Chile (1897–1904), as minister to Belgium (1904–1909), and as ambassador to Mexico (1910–1914). As "a silhouette sketch of life inside the diplomatic corps" (p. vii), the book is delightful. It abounds in anecdotes regarding the *chères collègues*, and at the same time gives one a clear idea of the duties and functions of a diplomatic official at an embassy or legation. The problems which were before Mr. Wilson when he served in Chile, such as, for example, the battleship Oregon incident (pp. 48–51) and the Aslop case (pp. 103–105), are described in an interesting manner. Students of the subject

will find little that is new, but much that is entertaining, in the chapter dealing with the author's negotiations with King Leopold of Belgium regarding the Congo question—"a sensitive subject with the king" (p. 150). One can understand—but not necessarily sympathize with—His Majesty's feelings when President Roosevelt "decided to turn over American interests, which included those of King Leopold" (p. 149), in the Canton-Hankow Railway to the Chinese government. Approximately two-thirds of the book is devoted to Mr. Wilson's detail as American ambassador to Mexico. The author's controversy with President Wilson regarding the alleged "disastrous and amateurish policy" (p. 335) of the Wilson administration in Mexico might have been discussed in a more restrained manner. That Ambassador Wilson had just cause for a feeling of grievance over the visits to Mexico City of the "secret and personal agents of the Washington administration" (pp. 294, 306-308) will hardly be denied by those familiar with the practice of diplomacy. It may be questioned, however, whether the bitter criticism of President Wilson because of his policy toward General Huerta and the President's refusal to act upon the Ambassador's recommendations—described as "remedial and comprehensive" (p. 313)—are wholly justified. President Wilson may have been mistaken in his estimate of and attitude toward General Huerta, but it can scarcely be said that the General "died a sacrifice to . . . . over-weening jealousy and egoism" (p. 295). E. C. W.

Volume I of the *Survey of International Affairs, 1925: The Islamic World Since the Peace Settlement*, by Arnold J. Toynbee (Oxford, pp. xvi, 611), points out how Islamic peoples have acted under two main impulses: (1) to free themselves from western dominance, and (2) to adapt and adopt certain elements of western civilization. The facts of ethnic and cultural, in contrast to political, geography are often emphasized throughout this work. Populations have been exterminated or expelled under the urge of developing nationalism, and institutions once held in sacred regard have been overthrown or secularized. The abolition of the Ottoman Caliphate, the rising Islamic opposition to European dominance in Northwest Africa, the relations of Egypt and Great Britain since the declaration of the British protectorate in 1914 involving questions relating to the Sudan and the Nile, the new powers and mandates in the Arabian area, matters relating to Persia before and since the *coup d'état* of 1921, with brief discussions in regard to other Islamic regions, form a well-

rounded survey of one of the most significant changes in the political factors of world relations. The book has several appendices, an excellent index, and maps of the areas to which reference is particularly made, and maintains the high quality of the work of the Royal Institute.

Professor Heinrich Pohl (Tübingen) and Professor Max Wenzel (Rostock) are rendering a distinct service to students of international law and relations throughout the world by publishing a series of detailed studies under the general title of *Völkerrechtsfragen, Eine Sammlung von Vorträgen und Studien* (Dümmler Verlag, Berlin). The monographs received so far include *Welt-Unionen, Haager Friedenskonferenzen und Völkerbund*, by Philipp Zorn; *Die Unterseebootfrage auf der Washingtoner Abrüstungskonferenz*, by Bernhard Skrodzki; *Neues Völkerrecht auf Grund des Versailler Vertrages*, by Heinrich Pohl; *Die Rechtsstellung der Freien Stadt Danzig*, by Otto Loening; *Die avoirs en numeraire* [cash assets] *im Vertrage von Versailles*, by Ernst Keetman. To start such a series by presenting two lectures of the late Professor Philip Zorn was a particularly happy thought. Professor Zorn, it will be recalled, was the fearless advocate of international coöperation in pre-war Germany and did what he could to secure Germany's participation in the Hague conventions. It is interesting from an American standpoint to note that Zorn expresses the belief in these pages that a "real League of Nations" would have to wait for the coöperation of Germany and the United States. Germany has entered, but the United States? Space does not permit a detailed account of the other numbers indicated above, but each one of them will be found worth while. All of them deal with questions of great actuality. The reviewer feels certain that such evaluations of the actual contributions of the League to the development of international law as are contained in the study of Heinrich Pohl will give to American scholars the sympathetic yet critical viewpoint of German colleagues at their best. C. J. F.

Shanghai: Its Municipality and the Chinese, by A. M. Kotenev (Shanghai: North-China Daily News and Herald, pp. xvii, 548), is a most thorough and interesting study of the recent problems of the municipal council of Shanghai in its relations with the public authorities of China, the Chinese residents, and the Chinese administration of justice in the international settlement. There is a full account of the history, practice, and statutes of the municipal council and of the

mixed court, culminating in the establishment of the Shanghai provisional court by the Chinese as a substitute for the mixed court. The appendix includes much valuable material, such as documents relating to the constitution of the republic of China, regulations for municipal self-government in China, the Chinese law of nationality, special Chinese police laws and regulations, the practice of foreign and Chinese lawyers, Chinese fiscal rules, and the rules and procedure applied in the newly created provisional court. Although packed with fact and statutes, the book gives a stirring account of the manner in which the municipal council, with scrupulous care, kept clear of Chinese and international politics. "In effect, the entire history of the evolution of the foreign municipal self-government at Shanghai, except that of the French concession, which is entirely subject to the authority of the French diplomatic representatives in China, is a continual chain of more or less successful endeavors on the part of the council and the ratepayers to liberate the foreign community from dependence upon unsteady international politics" (p. 141). Another unique, but less exhaustive, study dealing with the same part of the world is *The Diplomatic Quarter in Peking: Its Juristic Nature*, by Professor M. J. Pergament, legal adviser to the People's Commissariat of the Union of Soviet Socialist Republics (Peking: China Booksellers, Ltd., pp. 133). The author defines the Diplomatic Quarter as "a strictly delimited area of land which has been granted by China to the powers signatory to the protocol of 1901 for their exclusive use, and with the right (a) of autonomous administration in the interior; (b) of making the Quarter defensible, and (c) of the maintenance of a permanent guard by each of the powers concerned, so as to effect the defence of the diplomatic legations which are located within the area named, where each of them has been assigned a special lot of land and holds it on the basis of the right of property." Although Professor Pergament regards the situation as an anomalous one and looks forward to the abolition of the Diplomatic Quarter, it is interesting to note that an insert states that on the day the book was published, in April, 1927, an armed Chinese force entered the Diplomatic Quarter and with "open cynical disregard of a fundamental principle of international law," invaded the Russian embassy, thus beginning a new period in the history of the Quarter.

An Introduction to the Study of International Organization, by Pitman B. Potter (Century Company, pp. xv, 587), is a third edition

of a book already well known. In the new edition there are many improvements, particularly in the greater objectivity in treatment where new matter has been introduced. Through elimination of some topics and other rearrangement, as well as through condensation of much of the historical discussion, new and valuable material has been included without adding to the number of pages, indeed with some reduction. Naturally, much of the new material is centered about the development of the League of Nations and organizations related more or less closely to the League, such as the International Labor Organization and the Permanent Court of International Justice. There is no attempt to minimize the importance of other, particularly contemporary, methods of international organization. The bibliography has also been brought up to date, though there are fewer references to secondary materials in the main text. As in earlier editions, the appendices furnish valuable illustrative material, and in this edition the Constitution of the International Labor Organization and the Statute of the Permanent Court of International Justice have been added.

There has been, since the World War, a tendency among writers to endeavor to determine whether the predictions as to the future of international law made in 1914-1918 have been fulfilled. The general conclusion is that international law is even stronger than before, though it is faced with new problems and has failed to meet some changed conclusions. As an ardent advocate of the League of Nations, M. Nicholas Politis, in *Les Nouvelles Tendances du Droit International* (Paris: Librairie Hachette, pp. 249), sees some difficulties in organizing international life and at the same time admitting sovereignty. Here, as in the plans to outlaw war, and in the spread of the principles of the treaties of Locarno, the attitude of the United States creates problems. With the development of an international community, there is an increasing and natural demand for codification of international law, and this subject receives more and more attention. This book is an elaboration of the lectures delivered at Columbia University in 1926 in which M. Politis set forth that the international spirit should for the twentieth century be, what the idea of sovereignty was for the seventeenth, the master idea, the end and the inspiration.

The Danish Sound Dues and the Command of the Baltic, by Charles E. Hill (Duke University Press, pp. ix, 305), is the only exhaustive analysis of the rise and fall of the Sound dues. The author has brought

to light an immense amount of Scandinavian source material hitherto unknown or superficially treated. He rightly emphasizes the fact that the dues were levied to increase the size of the royal private income (p. 14 *et passim*), and not to further the commercial supremacy of the Danish merchants (p. 54). Not until 1816 were the dues turned into the public treasury. It is unfortunate that the author has been mastered by his material. The course of the narrative is almost entirely obliterated by the procession of facts. Chapters packed with details are left, one after the other, without evaluation or synthesis. No background is presented. There is no attempt to fit the exaction of the dues with the contemporary principles of international law on the subject. Further explanation would seem to be needed, for the tale is a strange one. As a summary of the facts of the subject, however, the book is probably definitive. P. T. F.

Die Verbindlichkeit der Beschlüesse des Völkerbundes (Zürich: Orell Fuessli, pp. iv, 90), by Dietrich Schindler, treats of a question which is of fundamental importance for an understanding of the League of Nations. Are the members of the League legally bound by resolutions of the Council or the Assembly, and if so, to what extent? Schindler, professor at the University of Zürich, makes a distinction between resolutions (*Resolutionen*) which might be legally binding and those which have the nature only of political recommendations (*Vorschläge*). "The close interrelation of law and politics, the unsettled demarcation between legal and political influence in the League of Nations, justifies the present inquiry" (p. 4). Past practice is taken into consideration. What makes this monograph particularly interesting is the application of its results to a number of current problems like the position of those states which do not have a vote in the Council of the League (p. 46). Students of the League of Nations will profit from a reading of this treatise.

The Immediate Origins of the War (28th June—4th August, 1914), by Pierre Renouvin, translated from the French by T. C. Hume (Yale University Press, pp. xiv, 395), is not just another book on the World War, but a penetrating and scholarly study which deserves careful attention. The author's conclusion is best summarized in his own words: "The military provocation of July, 1914, was determined by a diplomatic provocation. The connecting link . . . . was furnished by the Austrian declaration of war upon Serbia. Now Germany and Austria were *alone* in desiring this provocation. It is true that they

had reason to feel uneasy; nationalistic movements were threatening the very existence of the Dual Monarchy, and, indirectly, the position of the German Empire. But they would not consent to any solution other than that of violent action. They had agreed upon the program after careful deliberation, having coolly considered all the possible consequences of their action. So far as the *immediate* origins of the conflict are concerned, that is the one fact that dominates all others" (p. 355).

Melvin M. Knight's *The Americans in Santo Domingo* (Vanguard Press, pp. xv, 189) is the first of a series of Studies in American Imperialism to be published under the editorship of Professor Harry Elmer Barnes. Two further volumes are announced on Bolivia and Cuba. Dr. Knight's study concerns itself rather with the facts and dangers of economic imperialism—"dollar diplomacy"—than with direct governmental action.

LOCAL GOVERNMENT

The Bail System in Chicago, by Arthur L. Beeley (University of Chicago Press, pp. xi, 189), is of interest not only because of the subject with which it treats but also on account of the method of investigation that has been used. The study is the first of the Social Service Monographs published in conjunction with the *Social Service Review*. After a discussion in Part I of the history of the bail system and the problems of its administration, the author attempts in Part II "to determine the extent to which accused persons who are ordinarily committed to jail pending trial, might, without administrative difficulty, be conditionally released in the community." In this latter part of the investigation he has used the sampling method as a means of securing his data, selecting for this purpose every third or fourth name on the list of bailable prisoners, and investigating each case very carefully. From the facts which he has gathered, the author concludes that the bail system in Chicago has completely broken down at many critical points, and he makes certain recommendations for improvement. These proposals include, among other suggestions, adjustment of the form and amount of bail to the nature of the offense, the weight of the evidence, the character of the accused, and the quality of the bail security; greater control over professional bondsmen; making it a misdemeanor to sell, transfer, convey, or incumber property during the period of bailment; making it a misdemeanor to schedule the same property on more than one recognizance;

the creation of a bail commission appointed by and responsible to the courts; minimizing delay in court procedure and increasing cooperation and continuity of policy on the part of the local officials having to do with the administration of justice.

Juvenile Courts in the United States: Their Law and Procedure, by Herbert H. Lou (University of North Carolina Press, pp. xvii, 277), is perhaps the most comprehensive treatment yet attempted of the philosophy, history, jurisdiction, organization, and workings of juvenile courts. The author emphasizes the fact that these courts are something more than mere judicial tribunals and concludes that "the juvenile court as a clinic, a social agency, and a legal institution is so far the best instrument ever devised by society to handle children's problems outside the home, the school, and other social organizations. It may become more and more scientific, but its judicial and parental character will continue, at least for generations to come." Appendices include a standard juvenile court act, juvenile court standards, an extensive bibliography, and a table of leading cases.

La Ville Française, Institutions et Libertés locales, by Maxime Leroy (Marcel Rivière, pp. 229), gives an historical explanation of the French commune as it is found today, covers the various laws regulating civic life therein, and pleads for greater self-government. Much space is given to the increased sphere of municipal activities, and the author advocates the further coöperation and combination of the smaller cummunes that they may be able to enjoy the advantages of electricity, hospitals, and other public benefits which would be impossible if left to themselves. This general tendency toward a greater amount of freedom in local self-government is also discussed in an article by Louis Trotobas, "*Les réformes de l'organisation administrative realiseés par les décrets de 1926*," which appeared in *L'Année Politique* for July, 1927.

The League of Minnesota Municipalities has published a most thorough study of *The Law of Special Assessments in Minnesota*, by Harold F. Kumm (pp. 187). The author has summarized all of the judicial decisions and statutory provisions on the subject and has classified his material in such a way as to make it easily accessible and usable. Another study relating to local government in the same state is *Village Laws and Government in Minnesota*, by Harvey Walker (Bureau for Research in Government of the University of Minnesota, pp. iv, 175). Mr. Walker traces the development of village government

in Minnesota from the early town charters down through "the period of special village charters to the present general village laws." Such studies as this are of particular value in bringing to the front a unit of local government which in the past has been sorely neglected.

The publication of Dr. Miller McClintock's *Report on the Street Traffic Control Problem of San Francisco* (pp. xiii, 356), prepared for the Traffic Survey Committee, gives us a comprehensive study similar in form to that made for the city of Chicago and noted in the *Review* for August, 1927 (p. 693). The report includes a study of traffic flow in San Francisco, the growth of traffic density, the physical characteristics of the street plan, traffic accidents, economic factors, pedestrian traffic, the automobile storage problem, traffic police, traffic signs and signals, traffic violations, and administrative organization for future development. As in the earlier report, the necessity of a traffic engineering agency is stressed. In contrasting the two surveys, one is impressed by the fact that the investigations did not find the traffic problem in San Francisco complicated by the same multiplication of local government as in Greater Chicago; nor was it necessary to emphasize the need for a firmer and more systematic enforcement of traffic laws in the courts.

POLITICAL THEORY AND MISCELLANEOUS

Americans, whether radical or conservative, will be astonished to learn in *Les Partis Social-Democrates: Leur Rôle dans le Mouvement Ouvrier International Actuel* (Paris: Bureau d'Editions, de Diffusion, et de Publicité, pp. 302), edited by Eugene Varga, that it is the function of socialists to defend the capitalist system and protect the bourgoisie, and even more so when they hear that the chieftain of this veritable police squad in the United States is Morris Hillquit. Nevertheless, that is the basic theme of this comparative study of the socialist parties, including the Second International in Germany, France, Belgium, England, Italy, Austria, Czechoslovakia, Poland, Hungary, Bulgaria, Serbia, Rumania, and the United States. What gives this book—brought out apparently by a communist publisher—its peculiar and weird flair is the fact that it is written from the viewpoint of the Third International by a dozen comrades, probably one from each country. But no special responsibility is accepted by any one of them for a particular part. In spite of its violent party bias, the book is of real interest for European politics, as it affords an insight into the intellectual struggle of European radical parties which

is not easily gained by the outsider. The best known to Americans among the collaborators is W. Z. Foster. Due to the fact that the editor has apparently selected similar correspondents in all countries concerned, a story deprecating the future possibilities of social-democratic efforts is the outcome. Taking into consideration the violent bias of the contributors, the detachment of the story is striking. Yet the reviewer is not astonished at that. After all, men of this type are usually highly intellectual, and they have set themselves the task of "knowing profoundly their social-democratic adversary in each country." One of the most useful features of the book is the statistics portraying the importance of the working classes in each country, although great caution must be exercised in interpreting these figures no less than all other statistics. C. J. F.

Allgemeine Théorie des Budgets, by Gaston Jèze, edited by Dr. Fritz Neumark (Tübingen: Verlag von J. C. B. Mohr [Paul Siebeck], pp. xvi, 377), is a German edition of Professor Jèze's well-known treatise *Théorie Générale du Budget*, enlarged by the editor so as to include German budgetary practices. Such an account is of great importance for a better understanding of certain controversial aspects of the more recent reports of the Agent General for Reparation Payments which severely criticized German budgetary practices. These additions alone ought to recommend the German edition to all students of international relations and comparative government no less than to those of public finance. M. Jèze himself says that the German edition approaches his goal: to give an exhaustive comparative analysis of the budgetary systems of the great modern civilized states. However, the modern American budget is only occasionally touched upon—a fact which is amply explained by the date of the French edition (1922). If someone would now undertake an American edition in which the parts dealing with the United States could be properly enlarged to include not only federal but state practices, he would do a distinct service to American political science. For it is the clear recognition of the political nature of the budget which makes the study of Jèze so valuable to political scientists. "The budget" he says in his first sentence, "is essentially a political act." This is the red thread which runs through the entire study. It was high time that someone emphasized this fact, since all the "classical" writers seem inclined to ignore it. The reviewer hopes that the Institute for Government Research will seize the occasion.

C. J. F.

In *Lawyers and Litigants in Ancient Athens* (University of Chicago Press, pp. xii, 276) Professor Robert J. Bonner presents a simple and entertaining account of the administration of justice in ancient Athens from a standpoint interesting to students of law and political science. This volume adds another to the growing list of books and monographs on related topics already published by Professor Bonner or by others who have worked under his guidance, including Professor G. M. Calhoun's *Athenian Clubs in Politics and Litigation*, Professor Gertrude Smith's *Administration of Justice from Hesiod to Solon*, and Professor H. G. Robertson's *Administration of Justice in the Athenian Empire*. Professor Bonner solves for the uninitiated the paradox that because "the Athenians were a nation of lawyers" (p. 110) no body of case law or binding precedents was ever developed. Of particular interest to students of American politics is the discussion of the "indictment for unconstitutional legislation" (p. 99), and the explanation of why "in Athens the real power was exercised by the professional politicians rather than by the magistrates" (*ibid.*).

Race Contact, by Earl E. Muntz (Century, pp. xiv, 207), does not measure up to the importance of its subject. This is partly due to the conscious limitation of its scope to early race contacts, between discoverers and first settlers, largely, and the native populations of America, Africa, and Australia. Problems of interracial relations in colonies, and of race contact within developed civilizations, e.g., the South in the United States, the author does not touch. Another, perhaps less conscious, limitation is one of method: to state a sociological truism or a popular generalization for native character and custom, to support it with miscellaneous instances drawn from old-fashioned ethnology and traders', travelers', administrators', and missionaries' memoirs, to qualify it from similar sources, and finally to restate it in its qualified form. No new conclusions are reached, no new approaches suggested or employed. However, a large trove of observations, of varying value, is presented, some of which will be useful to other workers in the field. Here the value of the book—chiefly antiquarian—ends. It lacks any but the most mechanical form; it evidently owes nothing to field study; it depends on sources mostly looked upon with suspicion by contemporary anthropological science. P. L.

On the topic of *Sozialpolitik* a voice coming from Germany will always find an interested audience in the United States. In a brief

study entitled *Einführung in die Sozialpolitik* (Berlin: Zentralverlag, pp. 123), Bruno Rauecker undertakes to interpret the history of social policies as the result of the particular humanitarian and political movements of the epoch. Citing Aristotle, Rauecker expresses the belief that *Sozialpolitik* is, and always has been, a true part of "politics." Rauecker maintains that the reason for the pursuit of social policies, i.e., the pauperization of large classes of the people, is ever present. He therefore describes the influence which the political institutions of Greece, Rome, the Middle Ages, and modern times have had upon the conduct of social policies. In the last third of his book he gives a rather careful analysis of the effects of German social policies at the end of the nineteenth and the beginning of the twentieth centuries. Altogether, this is a very useful little book.

The Duke University Press has recently published *The Social Philosophy of William Morris*, by Anna von Helmholtz-Phelan (pp. 207). After a brief but informing account of Morris' early life and of the beginnings of his artistic career, the author shows how Morris' socialism developed out of his art, how his desire to bring about a condition in which everyone would be able to live an esthetically satisfactory life led him to turn to the framing of utopias as well as houses and decorations. Then follow, in successive chapters, an historical sketch of Morris' socialism and a longer analysis of the more important aspects of that creed. Most of this section is devoted to a discussion of Morris' indictment of the present way of life and his conception of a true society. The book is both thorough, within the limits set, and readable. The Duke University Press has presented it in an unusually attractive format.

The Institut für Weltwirtschaft und Seeverkehr at Kiel is publishing a series of lectures, edited by its active and able director, Professor Bernhard Harms. They bear the general title *Kieler Vorträge* (Jena: Kommissionsverlag von Gustav Fischer). Among the more recent issues we find: No. 18, *Die Eisenindustrie in der Welt unter besonderer Berücksichtigung des internationalen Eisenpaktes* (1927), by M. Schlenker; No. 19, *Horizontal und Vertikal im Wandel der letzten Jahrzehnte* (1927), by Manuel Saitzow; No. 20, *Die wirtschaftliche Emanzipation Südamerikas* (1927), by August Skalweit; No. 21, *Technischer Fortschritt und Ueberproduktion* (1927), by L. V. Birck; No. 22, *Ueber die Beziehungen zwischen Aussenhandel und Volkswohlstand* (1927), by W. Susat; and No. 23, *Die Kapitalexpansion*

der Vereinigten Staaten in Lateinamerika (1927), by Harry T. Collings. As these titles indicate, the lectures cover a wide variety of economic and semi-political problems of general importance.

The Vanguard Press has added to its series of Outlines of Social Philosophies: *What is the Single Tax?*, by Louis F. Post (pp. xiii, 140); *What Is Coöperation?*, by James P. Warbasse (pp. xiii, 170); and *What is Mutualism?*, by Clarence L. Swartz (pp. ix, 238). This last adds to our list of "isms" a plan of social reconstruction which is regarded as the negative of communism, since it proposes a social system "based on reciprocal and non-invasive relations among free individuals." Mr. Post's book is undoubtedly the most important of the group because it is written by one who was closely associated with Henry George. Two other small volumes published by the Vanguard Press are *Prosperity: A Symposium*, edited by Harry W. Laidler and Norman Thomas (pp. viii, 286), and *Proudhon's Solution of the Social Problem* (pp. xvi, 225), edited with an introduction by Henry Cohen. This latter volume includes a long forgotten article on "Proudhon and the Bank of the People" written in his younger years by the famous journalist Charles A. Dana, and resurrected during the Bryan campaign of 1896 when the New York *Sun* was bitterly attacking the Nebraskan.

One of the most promising methods of relieving congestion in the courts and for obtaining a more expert settlement of business disputes has been the development of commercial arbitration. The leadership in this movement has been exerted by the American Arbitration Association, which has now given further encouragement and impetus to the practice by publishing a *Year Book on Commercial Arbitration in the United States, 1927* (Oxford University Press, American Branch, pp. viii, 1170). This volume describes the organization and purpose of the Association and explains in detail the facilities for commercial arbitration that have been provided by thirty leading trade associations, chambers of commerce, government departments, and legal organizations. There is an exhaustive analysis of the federal, state, and foreign laws on commercial arbitration, and detailed suggestions are given as to the manner of setting up arbitration tribunals.

Études de Principiologie du Droit, by Alexander Gorovsteff, has been published in two volumes: the first, on the theory of the object of law (pp. 98), by E. de Boccard, the second on the theory of the subject of

law (pp. 222), by Recueil Sirey. The author has adopted the title from Bierling's *Prinzipienlehre*, and to Bierling he admits that he owes much in regard to his theory of the object of law. His two main contentions are that the subject of law is always man, whether an individual, a collection of men (as in a corporation), or a collection of men who form a state (international law); the second is that the object of law is always the natural liberty of these same subjects of law.

Essai sur L'Histoire de L'Émigration, by René Gonnard (Librairie Valois, pp. 368), is valuable, in the first place, because it treats the subject as a whole and one can get a better perspective of our own American problem of immigration by seeing it as part of an age-long and world-wide movement. Besides giving a complete outline of the various emigrations, M. Gonnard has devoted a chapter to the doctrines relative to emigration which are found in various political and economic theorists, such as Bodin, Hobbes, Adam Smith, and Malthus. Especially interesting is his report on France as a country of immigration, and figures are given showing the large number of Italians, Belgians, Poles and other alien nationals now resident in France. The viewpoint of the author is that of an intensely patriotic Frenchman.

In *The Foreign Policy of James G. Blaine* (University of Minnesota Press, pp. 411) Mrs. Alice Felt Tyler gives us a more judicious interpretation of the rôle of the "plumed knight" in the shaping of American foreign policy than any previously written. A figure about whom there were the most violent differences of opinion while still in public life, Blaine has since been either eulogized or portrayed as a charlatan by practically every person who has had occasion to characterize him in biography or history. Mrs. Tyler considers him the ablest secretary of state from Seward to John Hay. But she is brought to this conclusion only after a dispassionate analysis in the course of which her subject's weaknesses and failures are frankly put before us.

In *Three Wise Men of the East, and Other Lectures* (University of Minnesota Press, pp. 240) Professor Arthur J. Todd, of Northwestern University, modestly but engagingly records impressions made upon the mind of a social scientist during a recent visit to India, China, and Japan. The three "wise men" are Gandhi, the saint, Tagore the poet, and Bose the scientist; and the largest part of the volume is devoted to India. A hundred-page analysis of the impact of industry upon the Orient makes particularly illuminating reading.

Professor S. E. Morison's *Oxford History of the United States* (Oxford University Press, 2 vols., pp. xiv, 461; viii, 531) is a delight to read as well as a reliable account of events from 1783 to 1917. Writing primarily for an English public, the author has emphasized our relations with Great Britain. Another book having to do with Anglo-American relations, but of an earlier time, is *England and America, Rivals in the American Revolution* (Macmillan, pp. 192), which is a collection of the lectures delivered by Claude H. Van Tyne on the Sir George Watson Foundation for American History, Literature, and Institutions.

La Théorie Générale de l'État Soviétique, by Dr. Mirkine-Guetzevitch (Paris, Marcel Giard, pp. 203), is an analysis of soviet political organization and theory by a former professor in the faculty of law at the University of Petrograd. The author is now a refugee living in Paris and naturally not in sympathy with the régime of Moscow. He is, however, a scholar of standing, and his book is to be commended.

Without attempting to propound a solution, Nathaniel Peffer in *The White Man's Dilemma* (John Day, pp. x, 312) discusses the general economic and social problems of imperialism. The dilemma, as he frames it, lies in the necessity for the white races, as at present organized, to maintain and extend their empires, and their inability to do so without an increasing expenditure of force.

Socialpsychologie in Auslande, by L. H. Ad. Geck (Berlin and Bonn: Ferdinand Dümmlers Verlag, pp. viii, 119), is a descriptive bibliography of social psychology covering Italy (13 pages), France (17 pages), England (20 pages), and the United States (56 pages), besides a few remarks about Czechoslovakia, Switzerland, Holland, Poland, Sweden, Russia, Japan, and Argentina (together, 12 pages).

An interesting piece of pre-campaign literature is the biography of Alfred E. Smith called *Up from the City Streets*, by Norman Hapgood and Henry Moskowitz (pp. 347), which has been published by Harcourt, Brace and Company. Written in popular style, the book is an entertaining account of the life and works of New York's famous governor.

Il Problema delle Riparazioni (Pavia: Presso La Facoltá di Politica della R. Universitá, pp. 141) is an analysis, from an Italian viewpoint, of the reparations problem in its relation to the German economic system.

RECENT PUBLICATIONS OF POLITICAL INTEREST
BOOKS AND PERIODICALS

CLARENCE A. BERDAHL
University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW

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Baldwin, Alice M. The New England clergy and the American revolution. Pp. 235. Durham (N. C.): Duke Univ. Press.

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Burgess, W. Randolph. The reserve banks and the money market. Pp. 328. N. Y.: Harper's.

Cabot, Philip, and *Mallott, Deane W.* Problems in public utility management. Pp. 623. Chicago: A. W. Shaw Co.

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King, Clyde L., ed. Great inland waterway projects in the United States. Pp. iv+188. Ann. Am. Acad. Jan., 1928.

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